California-Oregon Power Co., said sale having been made in the year 1923; to the Committee on Irrigation and Reclamation.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

723. By Mr. BLOOM: Petition of Hawaii Education Association, indorsing the new education bill; to the Committee on Education.

724. Also, petition of the New York State Fish and Forest League, concerning House bill 7479; to the Committee on Agriculture.

725. By Mr. O'CONNELL of New York: Petition of Miss Elizabeth E. Denning, R. N., attached to the William McKinley Camp, No. 23, United Spanish War Veterans, Long Beach., Calif., favoring the passage of House bill 98; to the Committee on Pensions.

726. Also, petition of the Brooklyn Bar Association, of Brooklyn, N. Y., favoring the passage of House bill 7907, to increase the salaries of Federal judges; to the Committee on the Judiciary.

727. By Mr. TILSON: Petition of Mr. Austin F. Hawes, State forester of the State of Connecticut, relative to the Stanfield grazing bill (S. 2584); to the Committee on Agriculture.

SENATE

THURSDAY, *February 18, 1926*

Rev. Wallace Radcliffe, D. D., of the city of Washington, offered the following prayer:

O God, praise waiteth for Thee, for Thou art good and Thy mercy endureth forever. We thank Thee for the light, for night and day, for strength, for food, for home, for raiment, and all Thou givest us day by day in the things that perish, for duties and opportunities day by day, and especially for that gift of salvation through Thy Son Jesus Christ, our Savior.

Help us as we accept Thy gifts in Thy fear and to use this world as not abusing it. Teach us by the ministry of Thy grace that to us may come the forgiveness of sin, the resurrection of the body, and the life everlasting. Sanctify unto us the duties and opportunities of this day. By Thy Spirit help us to work whilst it is called to-day. Keep us from idleness, from sloth, from the misuse of the talents Thou hast given us, and in all things to work and to live for Him who died and rose again, our Master and in the end our Judge.

Hear us in our prayer one for another. Bless the Senate of the United States. Care for any that are sick or burdened in any way in body, in mind, or in estate. Care for our near ones at a distance from us, and by Thy kindly providence protect them and by Thy grace sustain them in every time of need. In this hour preside Thou over all things. Bless Thy servant the President of the Senate and all in affiliated authority, that they may have guidance, and wisdom, and patience, and courage from Thee. Bless these pages and grant them intelligence and industry and faithfulness, that being faithful in few things they may become faithful in many things, and trained to good citizenship, and to the fear of Him who is God and Father over all.

To-day grant Thy loving providence; bless all legislation. Let Thy servants have the presence and the power of Thy Spirit in brotherhood, in harmony, that their acts may be for justice and equity and truth, and the honor of the Nation and the prosperity of the people. Abide with the Nation. Be Thou to us day by day a pillar of cloud and fire that peace and prosperity may abide. To the honor of Thy name, through Jesus Christ our Lord. Amen.

The Chief Clerk proceeded to read the Journal of yesterday's proceedings when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Farrell, its enrolling clerk, announced that the House had passed the following joint and concurrent resolutions, in which it requested the concurrence of the Senate:

A joint resolution (H. J. Res. 153) providing for the participation of the United States in the sesquicentennial celebration in the city of Philadelphia, Pa., and authorizing an appropriation therefor, and for other purposes; and

A concurrent resolution (H. Con. Res. 11) to tender the thanks and appreciation of the Congress of the United States for heroic service rendered by the officers and crews of the steamships *President Roosevelt*, *President Harding*, *American Trader*, *Republic*, and *Cameronia*.

ENROLLED BILLS SIGNED

The message also announced that the Speaker of the House had affixed his signature to the following enrolled bills, and they were thereupon signed by the Vice President:

H. R. 172. An act to extend the time for the construction of a bridge across the Mississippi River at or near the village of Clearwater, Minn.;

H. R. 173. An act to extend the time for the construction of a bridge across the Rainy River between the village of Spooner, Minn., and Rainy River, Ontario;

H. R. 3852. An act to authorize the construction of a bridge over the Columbia River at a point within 2 miles downstream from the town of Brewster, Okanogan County, State of Washington;

H. R. 4440. An act granting the consent of Congress to the board of supervisors of Clarke County, Miss., to construct a bridge across the Chunky River, in the State of Mississippi;

H. R. 4441. An act granting the consent of Congress to the board of supervisors of Neshoba County, Miss., to construct a bridge across the Pearl River in the State of Mississippi;

H. R. 5027. An act authorizing the construction of a bridge across the Ohio River between the municipalities of Rochester and Monaca, Beaver County, Pa.; and

H. R. 5565. An act granting the consent of Congress to the Civic Club of Grafton, N. Dak., to construct a bridge across the Red River of the North.

LEASES GRANTED BY THE SECRETARY OF WAR

The VICE PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting, in compliance with law, a list of leases granted by the War Department under authority of law during the calendar year 1925, which, with the accompanying paper, was referred to the Committee on Military Affairs.

PETITION

Mr. ROBINSON of Arkansas presented a letter in the nature of a petition from M. W. Fitz, president of the Farmers Savings Bank at Manson, Iowa, favoring the passage of the bill (S. 1141) to establish the Mena National Park in the State of Arkansas, which was referred to the Committee on Public Lands and Surveys.

REPORT OF THE COMMERCE COMMITTEE

Mr. BINGHAM, from the Committee on Commerce, to which was referred the bill (H. R. 5013) extending the time for the construction of the bridge across the Mississippi River in Ramsey and Hennepin Counties, Minn., by the Chicago, Milwaukee & St. Paul Railway, reported it without amendment and submitted a report (No. 193) thereon.

RETURN OF MINUTE BOOK TO SAVANNAH (GA.) MASONIC LODGE

Mr. FESS. From the Committee on the Library, I report back favorably without amendment the joint resolution (S. J. Res. 58) authorizing the Librarian of Congress to return to Solomon's Lodge, No. 1, Ancient Free and Accepted Masons, of Savannah, Ga., the minute book of the Savannah (Ga.) Masonic Lodge.

Mr. GEORGE. I ask unanimous consent for the immediate consideration of the joint resolution.

There being no objection, the joint resolution was considered as in Committee of the Whole and it was read, as follows:

Resolved, etc., That the Librarian of Congress is hereby authorized to return to Solomon's Lodge, No. 1, Ancient Free and Accepted Masons, of Savannah, Ga., the original manuscript of the record of the proceedings of said lodge, which is contained in one bound volume, duodecimo, now in the Manuscript Division of the Library of Congress, marked "Savannah Masonic Lodge, 1757," the said manuscript having been identified as originally the property of the said lodge.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

REPORT OF EXECUTIVE NOMINATION

Mr. BORAH. Mr. President, as in executive session, I ask leave to submit a report from the Committee on Foreign Relations.

The VICE PRESIDENT. Without objection, the report will be received and placed on the Executive Calendar.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. GOFF:

A bill (S. 3183) to provide relief for the victims of the airplane accident at Langin Field, Moundsville, W. Va.; to the Committee on Claims.

By Mr. JONES of Washington:

A bill (S. 3184) to authorize the Secretary of Commerce to dispose of certain lighthouse reservations, and to increase the efficiency of the Lighthouse Service, and for other purposes; to the Committee on Commerce.

A bill (S. 3185) authorizing certain Indian tribes and bands, or any of them, residing in the State of Washington, to present their claims to the Court of Claims; to the Committee on Indian Affairs.

By Mr. RANSDELL:

A bill (S. 3186) to promote the production of sulphur upon the public domain; to the Committee on Public Lands and Surveys.

By Mr. WILLIS:

A bill (S. 3187) granting an increase of pension to Emaline Yoder (with accompanying papers); to the Committee on Pensions.

By Mr. PEPPER:

A bill (S. 3188) to provide further for the relief of war minerals producers, and to amend the act entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," approved March 2, 1919, as amended; to the Committee on Mines and Mining.

By Mr. McNARY:

A bill (S. 3189) conferring jurisdiction upon the United States District Court for the District of Oregon or the Court of Claims, to hear and determine any suit or suits, actions or proceedings which may be instituted or brought by the Klamath irrigation district, a public corporation of the State of Oregon, or the State of Oregon by intervention or direct suit or suits, to set aside that certain contract between the United States and the California Oregon Power Co., dated February 24, 1917, together with all contracts or modifications thereof, and to set aside or cancel the sale made by the United States Government, through the Secretary of the Interior, of the so-called Ankey and Keno Canals, and the lands embraced in the rights of way thereof, to the said California Oregon Power Co.; said sale having been made in the year 1923; to the Committee on Irrigation and Reclamation.

By Mr. CAPPER:

A bill (S. 3190) to amend an act entitled "An act to regulate the height of buildings in the District of Columbia," approved June 1, 1910; to the Committee on the District of Columbia.

By Mr. ERNST:

A bill (S. 3191) granting a pension to Roberta Daviess; to the Committee on Pensions.

By Mr. GILLETT:

A bill (S. 3192) to amend section 9 of an act entitled "An act to define, regulate, and punish trading with the enemy, and for other purposes," approved October 6, 1917, as amended; to the Committee on the Judiciary.

By Mr. TYSON:

A bill (S. 3193) granting the consent of Congress to the highway department of the State of Tennessee to construct a bridge across the Tennessee River on the Waverly-Camden road between Humphreys and Benton Counties, Tenn.;

A bill (S. 3194) granting the consent of Congress to the highway department of the State of Tennessee to construct a bridge across the Cumberland River on the Gainesboro-Red Boiling Springs road in Jackson County, Tenn.; and

A bill (S. 3195) granting the consent of Congress to the highway department of the State of Tennessee to construct a bridge across the Tennessee River on the Lenoir City-Sweetwater road in London County, Tenn.; to the Committee on Commerce.

By Mr. McKELLAR:

A bill (S. 3196) granting the consent of Congress to the highway department of the State of Tennessee to construct a bridge across the Tennessee River on the Savannah-Selmer road in Hardin County, Tenn.; and

A bill (S. 3197) granting the consent of Congress to the highway department of the State of Tennessee to construct a bridge across the Tennessee River on the Linden-Lexington road in Decatur County, Tenn.; to the Committee on Commerce.

By Mr. CAMERON:

A bill (S. 3198) for completion of the road from Tucson to Ajo via Indian Oasis, Ariz.; to the Committee on Indian Affairs.

HEARINGS BEFORE COMMITTEE ON IRRIGATION AND RECLAMATION

Mr. McNARY submitted the following resolution (S. Res. 150), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Committee on Irrigation and Reclamation, or any subcommittee thereof, hereby is authorized during the Sixty-ninth Congress to send for persons, books, and papers, to administer oaths, and to employ a stenographer at a cost not to exceed 25 cents per 100 words, to report such hearings as may be had in connection with any subject which may be before said committee, the expenses thereof to be paid out of the contingent fund of the Senate, and that the committee, or any subcommittee thereof, may sit during the sessions or recesses of the Senate.

RIGHTS OF AMERICAN CITIZENS IN MEXICO

Mr. NORRIS. Mr. President, I submit the resolution which I send to the desk, and I ask unanimous consent for its present consideration.

The VICE PRESIDENT. The resolution submitted by the Senator from Nebraska will be read.

The resolution (S. Res. 151) was read, as follows:

Whereas various statements in the public press seem to indicate that there is a serious dispute between the Government of the United States and the Government of Mexico, in which it is claimed that various constitutional provisions and statutes of the Mexican Government conflict with the rights of American citizens alleged to have been acquired in oil lands in Mexico prior to the adoption of such constitutional provisions and the enactment of such laws; and

Whereas the American people are in ignorance of the real questions involved because the official correspondence between the two Governments has not been made public; and

Whereas full publicity of all the facts entering into such dispute is extremely desirable in order that the people of the two Governments may fully understand all the questions involved in said dispute; and

Whereas it has been stated in the public press that the Department of State has been very anxious to give full publicity to the official correspondence and that the Mexican Government has objected to such publicity: Now therefore be it

Resolved, That, if not incompatible with the public interests, the Secretary of State be requested to inform the Senate whether the Mexican Government has objected and is objecting to the publication of all the official correspondence pertaining to said dispute, and if it has so objected what reason, if any, has been assigned for the objection to such publicity.

Mr. BORAH. Mr. President, I think I should like to have that resolution lie over for a day, if there be no objection.

The VICE PRESIDENT. The resolution will lie over under the rule.

HOUSE RESOLUTIONS REFERRED

The joint resolution (H. J. Res. 153) providing for the participation of the United States in the sesquicentennial celebration in the city of Philadelphia, Pa., and authorizing an appropriation therefor, and for other purposes, was read twice by its title and referred to the Committee on the Library.

The concurrent resolution (H. Con. Res. 11) to tender the thanks and appreciation of the Congress of the United States for heroic services rendered by the officers and crews of the steamships *President Roosevelt*, *President Harding*, *American Trader*, *Republic*, and *Cameronia* was referred to the Committee on Commerce.

ACQUISITION OF LANDS IN DISTRICT OF COLUMBIA

Mr. PHIPPS. Mr. President, yesterday the Senate in considering the calendar under the five-minute rule passed the bill (H. R. 4785) to enable the Rock Creek and Potomac Parkway Commission to complete the acquisition of the land authorized to be acquired by the public buildings appropriation act approved March 4, 1913, for the connecting parkway between Rock Creek Park, the Zoological Park, and Potomac Park. I had been called from the Chamber and was not aware that the bill was coming up. I had an amendment pending to the bill for which I wished to ask consideration. I now move that the vote of the Senate by which the bill was ordered to a third reading and passed may be reconsidered.

Mr. ROBINSON of Arkansas. To what did the bill relate?

Mr. PHIPPS. It appropriated $600,000 for the acquisition of property to connect Rock Creek Park with the Potomac Parkway.

Mr. ROBINSON of Arkansas. And the Senator had an amendment pending?

Mr. PHIPPS. I had an amendment pending. The purpose of the amendment was to provide that the $600,000 should be contributed pro rata by the District and by the Federal Government on the 40-60 plan. I would like to have the Committee on the District of Columbia consider that amendment.

Mr. ROBINSON of Arkansas. The bill was reported from the committee of which the Senator is chairman?

Mr. PHIPPS. No; it was reported from the Committee on the District of Columbia. I wish to ask that the bill be recommitted to that committee in order that I may present arguments in favor of my amendment.

Mr. ROBINSON of Arkansas. I see no objection to that procedure.

Mr. NEELY. Is the bill still in the possession of the Senate, or has it been sent to the House?

The VICE PRESIDENT. The Chair is advised that the bill is still in the possession of the Senate. The question is on the motion of the Senator from Colorado to reconsider the votes by which the bill was ordered to a third reading and passed.

The motion to reconsider was agreed to.

Mr. PHIPPS. I now move that the bill (H. R. 4785) be recommitted to the Committee on the District of Columbia for further consideration.

Mr. NORRIS. Mr. President, I would like to ask the Senator from Colorado to withhold any action on his motion. I have no objection to the motion pending, but the chairman of the Committee on the District of Columbia [Mr. CAPPER] is not in the Chamber and I think before the bill is recommitted he ought to be given an opportunity to be heard.

Mr ROBINSON of Arkansas. I suggest to the Senator that the bill be restored to its place on the calendar and that the amendment be presented for the consideration of the Senate when the bill is again taken up.

Mr. PHIPPS. I have no objection to that course. I will see that I am notified the next time the bill is called up. I did not have an opportunity to discuss the matter before the committee when they had the bill under consideration and before they reported it out. Under the circumstances I accept the suggestion of the Senator from Arkansas and withdraw my motion for the recommittal of the bill.

The VICE PRESIDENT. The bill will be placed on the calendar.

Mr. PHIPPS subsequently said: I have been informed by the clerks that House bill 4785 was transmitted to the House of Representatives before my motion to reconsider was entered. I therefore move that the House be requested to return the bill to the Senate.

The motion was agreed to.

HANGARS AND FLYING FIELDS FOR AIR MAIL SERVICE

Mr. McKELLAR. Mr. President, on yesterday when the calendar was being considered the bill (S. 776) to authorize and provide for the payment of the amounts expended in the construction of hangars and the maintenance of flying fields for the use of the Air Mail Service of the Post Office Department was passed by the Senate, as shown on page 4130 of the RECORD. I happened not to be in the Senate at the time. I ask unanimous consent that the votes by which the bill was ordered to a third reading and passed may be reconsidered, and that the bill may be restored to the calendar. If it has gone to the House, I shall ask that it may be returned to the Senate.

Mr. JONES of Washington. What is the purpose of the bill?

Mr. McKELLAR. It is a bill regarding payment by the Postmaster General for hangars and flying fields for the Air Mail Service. It seems that certain chambers of commerce have at their own expense aided in the construction of air fields and the building of hangars and now they want to be reimbursed by the Government. I intended to ask yesterday to have the bill reconsidered, as I was not present when the bill came up for consideration.

The VICE PRESIDENT. Is there objection to the request of the Senator from Tennessee?

Mr. NORRIS. May I ask the Senator a question? What is the purpose of the Senator? Does he want to offer an amendment?

Mr. McKELLAR. I want to look into the matter further. I do not think that authority should be given in this way. I want to offer an amendment.

Mr. PHIPPS. Mr. President, may I ask the Senator a question?

Mr. McKELLAR. Certainly.

Mr. PHIPPS. Can the Senator inform us whether the bill, as passed, covers any Government landing station or any landing stations not now being used by the Government?

Mr. McKELLAR. I can not answer that question. I do know it is to refund the outlays of certain chambers of commerce which have been made, I think, as gifts, and not as advances to the Government.

Mr. KING. Mr. President, if the Senator will permit, I think he is in error with respect to the facts regarding the appropriation. As I understand, three hangars were constructed in three different States for the purpose of caring for the airplanes used by the Government in carrying mail from Chicago to San Francisco. When the mail route was established the Post Office Department had no funds with which to construct the hangars or provide aviation fields. One of the agents of the Government represented, at least in one case, that the Government would compensate various citizens who consented to advance the necessary money to build the hangars. After they were constructed they were used by the Government, and they are still being used by the Post Office Department. When the hangars were constructed they were turned over to the Government; and if those who constructed them should retake possession the Government would have to build others at a cost greatly in excess of the amount carried in the bill in question. These are the facts as I understand them.

Mr. McKELLAR. On the Senator's statement certainly the bill ought to be reconsidered, and it evidently had no consideration yesterday. Some representative of the Government, as the Senator said, made an individual contract with a chamber of commerce to construct a flying field for the Government. Surely a matter of that kind ought to have the consideration of the Senate before the Government is authorized to pay for the supposed damages or the supposed costs. All I am asking at this time is that the bill be recalled. I am asking unanimous consent that the votes by which the bill was ordered to a third reading and passed may be reconsidered, and the bill again placed on the calendar so that matter may be threshed out. The Senator will surely have every opportunity to present his views on the subject.

Mr. KING. I know it has been considered three times by committees and for three years at least.

Mr. McKELLAR. But the bill was never passed before, and evidently there is some reason why it should not be passed. All I ask is a reconsideration. I am not asking for the defeat of the measure at all; I am just asking for reconsideration of the votes so that the facts may be gone into thoroughly by the Senate. I hope I may have unanimous consent for that purpose.

Mr. ROBINSON of Arkansas. The Senator from Tennessee does not desire that the bill shall be taken up now?

Mr. McKELLAR. No; I merely desire that it shall be restored to the calendar.

Mr. FLETCHER. If unanimous consent shall not be granted the Senator from Tennessee can make a motion to reconsider.

Mr. McKELLAR. I know I can do that; but, as a rule, where a request is made by a Senator in such a case in order to save time unanimous consent is granted, and I hope it will be granted in this instance.

Mr. SMOOT. I have no objection to the request, but I should like to have the bill considered and disposed of.

Mr. McKELLAR. The bill may be considered at any time.

Mr. SMOOT. And when that time shall come the whole question will be presented to the Senate.

Mr. McKELLAR. Certainly.

Mr. SMOOT. I know that the money was spent, and I know that the hangars and flying fields were provided. I know further that there was an agreement that reimbursement should be made. Of course, if Congress does not wish to discharge the obligation, well and good; the people of Salt Lake City and Utah will stand the loss.

Mr. McKELLAR. I am perfectly willing that the bill may be restored to the head of the calendar, so that it may come up first.

The VICE PRESIDENT. No action can be had until the bill shall have been returned from the House of Representatives. Is there objection to the request of the Senator from Tennessee [Mr. McKELLAR]? Without objection, the House of Representatives will be requested to return the bill to the Senate, and the motion to reconsider will be entered.

AVIATION FIELD AT YUMA, ARIZ.

Mr. CAMERON. Mr. President, I have been informed that a clerical error appears in the bill (S. 2307) authorizing the sale of certain lands to the Yuma Chamber of Commerce, Yuma, Ariz., which was passed by the Senate on yesterday. With a view to correcting the error I desire to enter a motion to reconsider the vote on its passage. Inasmuch as the bill has been transmitted to the House of Representatives, I move that the House be requested to return the bill to the Senate.

The motion was agreed to.

ADDRESS BY SENATOR SWANSON—THE WORLD COURT

Mr. STEPHENS. Mr. President, a few nights ago the Senator from Virginia [Mr. SWANSON] delivered an address which was broadcast through one of the radio stations of this city. The subject of the address was the World Court. It is a very interesting and instructive address, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

My friends of the radio audience, in response to many requests, I have consented to discuss to-night the reservations included by the Senate in its resolution adhering to the protocol of the statute of the World Court.

The first declaration contained in the resolution is a statement that the United States adheres to the voluntary jurisdiction of the World Court, and not to its compulsory jurisdiction. The World Court provides for compulsory jurisdiction in certain specified disputes, which jurisdiction can be accepted by states when adhering to the court. Nineteen states have adopted the compulsory jurisdiction of the court. Compulsory jurisdiction, when accepted by a state, enables the court to summon that state before the court to answer a complaint made by another state.

Under the resolution of ratification approved by the Senate, the court can only have jurisdiction of such matters affecting the United States as she voluntarily consents for the court to hear and determine. This was in accordance with the recommendations of Presidents Harding and Coolidge and Secretary Hughes. Thus, no matter can come before the court involving the United States' rights or interests, and which would be binding upon it, unless it had previously given its consent. The assertion is frequently made that the United States could be summoned before the court and have any of its rights and interests determined without its consent. This assertion is without the slightest foundation.

The voluntary jurisdiction of the court, by the terms of the statute creating it, is specifically limited to such matters as the states by agreement or treaty shall refer to the court for consideration and determination. Under the Constitution of the United States all agreements with foreign nations must be made by the President by and with the advice and consent of the Senate. Under the Constitution the consent of the Senate when given to such an agreement must be by a two-thirds vote of the Members present and voting. In order to make this constitutional provision clear and to obviate all apprehension felt by some that this constitutional course might not be followed in referring a cause to the court, the resolution of adherence contains a specific provision that the United States approve the protocol to the statute creating the court with the understanding that recourse to the Permanent Court of International Justice for the settlement of differences between the United States and any other state or states can be had only by agreement thereto through general or special treaties concluded between the parties in dispute. This is similar to the provision contained in the resolution of adherence to the convention establishing the Court of Arbitration at The Hague in 1907.

Thus under the resolution of adherence all cases which go to the World Court must be by special or general treaties made by the President by and with the advice and consent of the Senate. The consent of the Senate when given to either special or general treaties must be by two-thirds vote of the Members present and voting. Every right and interest of the United States is thus fully and completely protected as required by the Federal Constitution.

It should be noted that the resolution of ratification provides for either special or general treaties. Under this provision there could be a special treaty for a specific case, or there could be a general treaty with a nation for reference of certain or specified classes of cases to the court for consideration and decision. Whether special or general treaty the concurrence of the Senate is required. Under this condition of adherence the United States, by the consent of the President and two-thirds of the Senate, can make general treaties with nations which would obviate the necessity of having a special treaty in each case. If such treaties are made with the concurrence of the Senate, the consent of the Senate would have been previously given to the reference of such cases and would be in accord with the requirements of the Federal Constitution.

The next reservation to be considered is the one declaring that adherence to the World Court shall not be taken to involve any legal relation on the part of the United States with the League of Nations or the assumption of any obligations by the United States under the treaty of Versailles. This reservation was suggested by Presidents Harding and Coolidge and Secretary Hughes.

I do not think this reservation was necessary, as the World Court has a statute assented to by 48 nations absolutely distinct from the statute creating the covenant of the League of Nations, which has been assented to by 55 nations. The World Court is controlled by its own statute, adopted separately and independently by 48 nations, and derives no authority from the statute creating the covenant of the league. The league can not in any way modify or amend the statute of the World Court. That statute can only be modified or amended by the 48 nations who separately and independently assented to the creation of the court.

Everything that the league does in connection with the court it does under the statute of the court and not under the covenant of the league, and acts only as an agency under the direction and control of the court's statute. The provision was included to allay the apprehension previously entertained by some and also to obviate the clamor sought to be created by the opponents of the court that adherence to the court meant entrance into the league. This reservation relieves the doubts and completely answers the false charge.

The next reservation to be considered is that which permits the United States to participate, through representatives designated for the purpose, upon an equality with other state members, respectively, of the council and assembly of the league in any and all proceedings of either council or assembly for the selection of judges of the court or for the filling of vacancies.

This reservation was recommended by Presidents Harding and Coolidge and Secretary Hughes. It was believed that if the United States adhered to the court, that it should have the same right as any other state or member in the selection of judges. This reservation confers this right upon the United States. In both the council and assembly of the league it will have representation and have the same rights possessed by any other state or member. This right of sitting in the council or assembly of the league is limited entirely to the selection of judges. The council and assembly of the league when it elects judges does so under the statute creating the World Court and not under the covenant of the league. The power derived for the selection of judges is derived only from the statute and not the covenant of the league. When the United States sits in the council and assembly of the league, it will be an entirely different body from that provided in the covenant of the league, and hence, in thus acting, the United States would not be participating in the work of the covenant of the league. Any thoughtful and impartial mind must inevitably reach this conclusion.

The representatives designated to represent the United States in the council and assembly of the league must be appointed by the President, by and with the advice and consent of the Senate, as required by the Constitution, unless Congress by an act should direct otherwise. In this respect every right and interest of the United States is fully protected.

The next reservation to be considered is the one providing that the United States will pay a fair share of the expenses of the court as determined and appropriated from time to time by the Congress of the United States.

The United States would not wish to enjoy the privileges of this great court without paying its fair share of the expenses necessary for its operation. The largest sum that has been paid by any nation for the expenses of the court is that paid by Great Britain, which amounts to $35,000 annually.

It should be noted that this reservation provides that the amount to be paid by the United States shall be determined and appropriated by Congress. Therefore, Congress determines the expenses to be incurred by the United States toward its share of the expenses of the court. Again, the Constitution of the United States was scrupulously followed, which prevents the appropriation of public money except by an act of Congress. No expenses incident to the court can be incurred by the United States without the approval of Congress. Every right and interest of the United States in this respect is fully protected. This reservation was recommended by Presidents Harding and Coolidge and Secretary Hughes.

The next reservation to be considered is that which provides that the United States may at any time withdraw its adherence to the World Court, and that the statute creating the court shall not be amended without the consent of the United States.

This reservation was not absolutely necessary, since the United States has a right to withdraw whenever it saw proper to do so, and the statute of the court could not be amended without the assent of the states which have given their adherence. The statute of the court being a treaty or convention, the United States by a joint resolution of Congress could at any time withdraw its adherence. The Supreme Court of the United States has repeatedly held that a joint resolution of Congress repeals a treaty or convention which had been previously ratified.

As the right of annuling a treaty is usually reserved or embraced in the treaty itself, it was thought wise to include this reservation in the resolution of adherence so that no question could ever be raised as to the United States possessing the right of withdrawal. It was also believed that since the United States gave its adherence to the existing statutes it was wise for it to also reserve the right that the existing statute should no be amended without its consent, thus avoiding any controversy in the future upon this question.

This also relieves the apprehension that some entertain that the court in the future might be different from the one to which the United States now gives her adherence. This provision completely eliminates the forebodings indulged in by some as to what the court might become

and do in the future. We know what the court is, we know the splendid work it has done, and this provision gives full assurance that its present course can not be changed without our consent. In this respect, I submit, every right and interest of the United States is fully protected.

The next reservation to be considered is the one which provides that the court shall not render any advisory opinion except publicly after due notice to all states adhering to the court and to all interested states and after public hearing or opportunity for hearing is given to any state concerned, nor shall the court, without the consent of the United States, entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest.

It should be noted that the World Court may give advisory opinions to the council of the league when requested to do so upon any specific matter or question. The rendering of advisory opinions is optional with the court.

In establishing the rules governing advisory opinions the court decided to treat advisory opinions similar to cases pending before the court for decision. Notice is required to be given, public hearings and arguments in open court are given precisely as in cases, and the opinion is publicly rendered.

The advisory opinions of the court have always been upon matters permitting of judicial decision, consisting of the interpretation of treaties or the application of international law. The opponents of the court concede that if the rules and conduct governing the court in the past in giving advisory opinions are pursued in the future objections to advisory opinions are largely eliminated, and the court will perform a useful and important service.

This reservation, when assented to by the other nations, insures that the World Court in the future will pursue the commendable and judicial course which has characterized it in the past. Under this provision advisory opinions are rendered publicly after full hearing and argument and with all the procedure that characterizes judicial consideration and action. Some of the most beneficial results derived from the World Court have come from the rendering of advisory opinions, which have always been so just and wise as to have been acquiesced in and followed. No opponent of the court can successfully challenge the wisdom and justice of any advisory opinion rendered nor deny the splendid results that have accrued from these opinions. This reservation insures that the future history of the court in rendering advisory opinions will be as beneficial as has been its past.

The latter part of this reservation was intended to protect the interests of the United States. It should be noted that it provides that the court shall not "entertain any request for an advisory opinion touching any dispute or question in which the United States has or claims an interest" without its consent.

The advisory opinions of the court are rendered at the request of the council of the league. The council of the league acts unanimously when making this request. Thus the four great powers which have permanent members in the council possess a veto power upon the request of the council of the league for an advisory opinion of the court. Either one of these powers can, by exercising this veto power, prevent the council from asking the court for an advisory opinion upon any question that would embarrass it or upon which it does not desire to have an advisory opinion.

It was believed to be fair and just that the veto power possessed by these four great powers should also be possessed by the United States where its interests are concerned. This would place the United States on an equality with these four powers in connection with controlling a request for an advisory opinion, when its interest was affected. The provision of the resolution provides "that the court shall not entertain a request for an advisory opinion upon any dispute or question in which the United States has or claims an interest" without its consent.

Thus the United States by claiming an interest can control the granting of a request for an advisory opinion touching matters affecting her equally with the other four great powers which are members of the council. Of course the United States will exercise this right fairly, justly, and properly. Thus upon advisory opinions to be rendered by the court the rights and interests of the United States are fully protected. With this reservation there can be no reasonable objection to adherence to the World Court on account of its rendering advisory opinions.

The next reservation to be considered is the one providing that the signature of the United States shall not be affixed to the protocol of the statute of the court until the powers signatory to such protocol shall have indicated through exchange of notes their acceptance of the foregoing reservations and understandings as a part and a condition of the adherence by the United States to the said protocol.

This provision is made in order to prevent any future misunderstandings as to the conditions upon which the United States adheres to the court. Some of these amount practically to amendments to the statute of the court, hence it is necessary to obtain the consent of the signatory powers to the statute in order for the amendments to be made. To prevent the delay which would be incident to amendment of the statute the reservation provides that the powers signatory to the protocol can, by an exchange of notes, give their assent to these reservations, and when this is done the signature of the United States can then be affixed to the statute. By this method the amendments can be effected much more quickly and just as effectively as by the slow process of amendment. This has been frequently done. The United States in the resolution of ratification has included no reservation which is unreasonable and none that will not be beneficial to the court and none to which serious objection can be urged. I believe the 48 nations that have adhered to the court will, by exchange of notes, promptly acquiesce in these reservations and that the United States will be very soon one of the adhering nations.

The resolution of adherence in addition contained a declaration of policy on the part of the United States which does not in any way affect the statute of the court or require the assent of other nations. This declaration is as follows:

"That adherence to the said protocol and statute hereby approved shall not be so construed as to require the United States to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall adherence to the said protocol and statute be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions."

This reservation was included in the ratification of the convention of 1907 establishing the court of arbitration at The Hague. No objection could exist why it should not be reaffirmed in connection with adherence to the World Court since it was sought by other reservations to place the two courts on terms of equality.

The language employed in this reservation is that which has nearly always been employed when the United States ratified conventions and it was sought to emphasize the fact that its action in acceding to the convention should not be construed in any way as an abandonment of its foreign policy, generally known as the "Monroe doctrine." The reservation, by its continued use, has always been construed as a reaffirmance of this doctrine. By the assertion of this reservation no one can rightfully claim that the Monroe doctrine has in any way been affected by the adherence of the United States to this court. The Monroe doctrine is a political policy of the United States, and as such is not subject to the jurisdiction of any court. This declaration emphasizes the fact that the United States has no intention at this time or any other time of abandoning this long-cherished and continued foreign policy. It relieves absolutely all apprehensions that could exist in any doubting mind as to any jeopardy, injury, or detriment that could occur to this American policy by adherence to this court.

These are the reservations included in the resolution of adherence to the World Court. I submit a careful and thoughtful examination of these reservations will convince any impartial mind that every interest and right of the United States has been fully protected and every possible danger amply provided for.

My friends, the World Court in the few years of its existence by its decisions and opinions has settled many acute, important, and dangerous international disputes, which had long continued and which contained possibilities of serious trouble and possibly war. This court has disclosed how effective a world court can be for peace of mankind and for the settlement of international differences and disputes. This court has disclosed that in the international field the great principle of courts can be effective and can be instrumental in displacing war and in settling disputes which would otherwise continue. Private wars, feudal wars, conflicts of clans, and the bloody revenge of family feuds in nations have disappeared by the creation of courts, thus enabling law and reason to control where once force and hatred held full sway. The civilization of nations is measured by the extent that courts have superseded force and violence.

There are those of us who believe that courts in the international field can be made effective in abolishing war and can be as potential in the settlement of international disputes as State and national courts have become in the settlement of domestic disputes. The existing World Court is the effort of 48 states to accomplish this. It is the first court that has ever been organized world-wide in its scope and its aspirations. This court in its structure, in the character of the able judges who are its members, in its provisions, and in its opinions and decisions has proven itself worthy of the world's confidence and deserves the aid and maintenance of all peace-loving people.

I believe that if this World Court had existed in 1914 the World War would probably have been averted. The controversy between Austria and Serbia which precipitated the war was a question of fact which was properly a matter for investigation and decision by a court. Archduke Ferdinand, the crown prince of Austria, was assassinated, and Austria insisted that the assassination, if not instigated, was connived at by the Serbian Government or accredited Serbian officials. Serbia indignantly denied this charge and insisted it was the irresponsible act of a half-demented youth, and that the Serbian Government was in no way responsible or connected with the affair, and that the Serbian

Government would make the fullest investigation to ascertain if any citizens of Serbia were connected with the affair, and would promise to inflict upon anyone found guilty the fullest and severest punishment. Austria insisted that she would not trust the investigation of the matter to the Serbian Government, but that Austrian officials must enter Serbia to participate in and direct the fullest investigation and ascertain for themselves the facts. Serbia replied that she could not consent for Austrian officials to enter Serbian territory to make this investigation to determine the guilt or innocence of Serbians, and especially the Serbian Government and its officials, without an absolute surrender of its sovereignty as a free state. As this time there was no World Court or other important world instrumentality by which this deplorable assassination could be investigated and the facts ascertained in order for justice to be awarded. If there had then existed a World Court similar to this court, Austria and Serbia would probably have consented for this court to make an investigation of this murder and determine the guilt or innocence of the parties and to render a decision.

The passion and anger in the meantime would have cooled and wise and saner counsel would have prevailed. The national pride of Austria and Servia would have permitted such a reference, and neither the prestige of the two nations or others concerned would have been affected by a reference of the matter to the World Court. This action would have saved the world from the frightful war, which cost over twenty millions of lives and almost half the world's wealth, and from the evils of which it will take several generations to recover. When confronted with another such terrible catastrophe, let there exist a court endowed with wisdom, entrenched in confidence, to which the world can have recourse for the peaceful and just settlement of the threatening dispute.

The United States, by joining this court, has decided to strive to obtain for the world such a court, to be one of the potential factors in shaping its destiny, in extending its usefulness, in giving wisdom to its decisions, and in making it a world temple of justice and law, where all nations can go to have their international differences and disputes decided. Above all things, the world needs peace founded on justice and right. I thank you.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed, without amendment, the joint resolution of the Senate (S. J. Res. 41) providing for the filling of a proximate vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 8722) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. MADDEN, Mr. ANTHONY, and Mr. BYRNS were appointed managers on the part of the House at the conference.

URGENT DEFICIENCY APPROPRIATIONS

The PRESIDING OFFICER (Mr. WADSWORTH in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 8722) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist upon its amendments and grant the request of the House for a conference, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to; and the Presiding Officer appointed Mr. WARREN, Mr. CURTIS, and Mr. OVERMAN conferees on the part of the Senate.

ALUMINUM CO. OF AMERICA

Mr. CUMMINS. Mr. President, I desire formally to present from the Committee on the Judiciary the minority views of the Senator from Oklahoma [Mr. HARRELD] (Rept. 177, pt. 2) and myself, separately (Rept. 177, pt. 3), upon the report of the Senator from Montana [Mr. WALSH] on Senate Resolution 109. I think the order of the Senate was that I should present those views this morning.

The VICE PRESIDENT. The views of the minority presented by the Senator from Iowa will be received and printed.

Morning business is closed. On February 16 the following unanimous-consent agreement was entered into by the Senate:

SPECIAL ORDER

Ordered, by unanimous consent, That the report (No. 177) of the Committee on the Judiciary, submitted by Mr. WALSH on February 15, in the matter of the Aluminum Co. of America, be made a special order for Thursday, February 18, 1926, immediately after the conclusion of the routine morning business.

In pursuance of the unanimous-consent agreement, the Chair lays before the Senate Report No. 177 from the Committee on the Judiciary, submitted on the 15th instant by the Senator from Montana [Mr. WALSH], in the matter of the Aluminum Co. of America.

Mr. WALSH. Mr. President, the report to which the pending motion proposes that the Senate shall give its approval carries an implication of dereliction on the part of the Department of Justice in the discharge of a grave duty devolved upon it by the Congress touching offenses against the law, not in a matter of trivial significance but one of the very highest importance, judged either from the nature of the affair or the eminence of the parties involved, or the dignity of the source from which the accusation comes.

The report was made pursuant to a resolution of the Senate by which it was recited that—

on the 30th day of January, 1925, the then Attorney General, Hon. Harlan F. Stone, addressed a letter to the chairman of the Federal Trade Commission in which he stated, "It is apparent, therefore, that during the time covered by your report the Aluminum Co. of America violated several provisions of the decree—

Referring to a decree entered against the Aluminum Co. in the United States Court for the Western District of Pennsylvania in 1912—

that with respect to some of the practices complained of, they were so frequent and long continued, a fair inference is the company either was indifferent to the provisions of the decree or knowingly intended that its provisions should be disregarded, with a view to suppressing competition in the aluminum industry—

The resolution adopted by the Senate directed—

That the Committee on the Judiciary of the Senate be, and it hereby is, directed forthwith to institute an inquiry as to whether due expedition has been observed by the Department of Justice in the prosecution of the inquiry so initiated on the direction of former Attorney General Stone, or which he reported would be initiated.

The Aluminum Co. of America is a corporation organized under the laws of the State of Pennsylvania, enjoying a complete monopoly of the production of crude aluminum in the United States and of all commercial deposits of bauxite, the ore from which aluminum is produced.

The decree referred to, among other things, enjoined the Aluminum Co. from certain practices charged against them in the complaint intended to establish and maintain a monopoly.

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator a question?

Mr. WALSH. Yes.

Mr. ROBINSON of Arkansas. Was that a consent decree?

Mr. WALSH. It was a consent decree.

Section 6 of the decree contains the following:

That the defendant and its officers, agents, and representatives be, and they are hereby, perpetually enjoined from entering into a contract with any other individual, firm, or corporation of a like or similar character to the above-quoted provisions in the contracts between the Aluminum Co. of America and the General Chemical Co., between said Aluminum Co. and the Norton Co., between said Aluminum Co. and the Pennsylvania Salt Manufacturing Co., and between said Aluminum Co. and Kruttschnitt and Coleman, or either of them, and from entering into or participating in any combination or agreement the purpose or effect of which is to restrict or control the output or the prices of aluminum or any material from which aluminum is directly or indirectly manufactured, and from making any contract or agreement for the purpose of or the effect of which would be to restrain commerce in bauxite, alumina, or aluminum, or to prevent any other person, firm, or corporation from or to hinder him or it in obtaining a supply of either bauxite, alumina, or aluminum of a good quality in the open market in free and fair and open competition, and from themselves entering into, or compelling or inducing, under any pretext, or in any manner whatsoever, the making of any contract between any persons, firms, or corporations engaged in any branch of the business of manufacturing aluminum goods the purpose or effect of which would be to fix or regulate the prices of any of their raw or manufactured products in sale or resale.

Then specifically, with reference to unfair practices charged against this company, the decree prohibited them from—

(b) Delaying shipments of material to any competitor without reasonable notice and cause, or refusing to ship or ceasing to continue

shipments of crude or semifinished aluminum to a competitor on contracts or orders placed, and particularly on partially filled orders without any reasonable cause and without giving notice of same, or purposely delaying bills of lading on material shipped to any competitor, or in any other manner making it impossible or difficult for such competitor promptly to obtain the material upon its arrival, or from furnishing known defective material.

(c) Charging higher prices for crude or semifinished aluminum from any competitor than are charged at the same time under like or similar conditions from any of the companies in which defendant is financially interested, or charging or demanding higher prices for any kind of crude or semifinished aluminum from any competitor for the purpose or which under like or similar conditions will have the effect of discriminating against such manufacturers in bidding on proposals or contracts to the advantage of said defendants or any company in which it is financially interested.

(d) Refusing to sell crude or semifinished aluminum to prospective competitors in any branch of the manufacturing aluminum goods industry on like terms and conditions of sale, under like or similar circumstances, as defendant sells such crude or semifinished aluminum to any firm or corporation engaged in similar business in which defendant is financially interested.

I should explain here that not only does this corporation enjoy a monopoly of the production of crude aluminum but it is also engaged in the production of utensils and other products which enter into competition with independent producers of such commodities.

Mr. REED of Pennsylvania. Mr. President, will the Senator yield to a question?

Mr. WALSH. I yield.

Mr. REED of Pennsylvania. When the Senator says that this company has a monopoly in this or that, does he mean that it has possession of any facilities which prevent anybody else from going into the business?

Mr. WALSH. It has control of practically every deposit of commercial bauxite in the United States.

Mr. REED of Pennsylvania. But the Senator knows——

Mr. WALSH. A competitor in the production of crude aluminum may import crude aluminum from other countries, but there is a high tariff upon its importation, so that it is commercially impossible to enter into competition with the Aluminum Co. of America in the production of crude aluminum in this country.

Mr. REED of Pennsylvania. But the Senator knows there is no tariff on the importation of bauxite. Is that not so?

Mr. WALSH. On the importation of bauxite?

Mr. REED of Pennsylvania. Yes, sir.

Mr. WALSH. It does not make any difference whether there is or not. I am not speaking about what might happen; I am telling what the fact is.

Mr. REED of Pennsylvania. Will not the Senator yield, then, to a further question?

Mr. WALSH. Yes.

Mr. REED of Pennsylvania. Does not the Senator know that most of the bauxite which this company uses it itself imports from abroad?

Mr. WALSH. I know it imports large quantities of bauxite from abroad, chiefly from sources which it itself owns.

Mr. REED of Pennsylvania. Does not the Senator know that there is more bauxite in British Guiana and Dutch Guiana——

Mr. WALSH. Wait a moment. I must object to this line of questioning.

Mr. REED of Pennsylvania. Yes; I do not think it is fair to argue with the Senator at this point.

Mr. WALSH. The Senator can not go on and make an argument without diverting me from the course of my discussion of this matter. I am stating that the Aluminum Co. of America is the sole source in America from which manufacturers of aluminum products can secure a supply of aluminum.

Mr. REED of Pennsylvania. One more question, and I will not interrupt again. Does not the Senator know that a very large amount of German and Swiss and French aluminum is constantly being pressed for sale throughout American markets?

Mr. WALSH. Yes; and I shall demonstrate before I get through that there is a working agreement between all of them and the Aluminum Co. of America by which the Aluminum Co. of America fixes prices in America; and, besides that, it owns a controlling interest in many of these foreign sources of supply.

Mr. REED of Pennsylvania. Can the Senator name a single one in which it does own a controlling interest?

Mr. WALSH. I shall be very glad to do that.

Mr. REED of Pennsylvania. I wish the Senator would.

Mr. WALSH. But, as I say, I do not want to be diverted from my argument to discuss side issues just now.

The provisions of the decree to which I have invited your attention were there inserted by reason of practices of the same character complained of in the complaint, from which I read as follows:

From 1889 until the present, whenever any independent aluminum industry of any kind gave promise either of being valuable to defendant if acquired, or of becoming a possible competitor of defendant or of any company in which it had an interest, defendant undertook, by unfair discriminations and other means, either to force such concern to sell its properties and business to or combine them with defendant itself or with a company in which it was interested, or entirely to abandon the aluminum business, and in but very few instances did defendant fail of its purpose. Not all the methods used by defendant are known to petitioner, but those known are as follows:

Defendant would suggest to the competing company a sale to defendant of its plants, and at the same time would threaten the establishment of a large competing plant of its own in such line of manufacture, and if the suggestion was not heeded, the independent would be harassed as to material and prices.

Mr. NORRIS. Mr. President, may I interrupt the Senator there?

Mr. WALSH. I yield.

Mr. NORRIS. Is the Senator reading from the petition of the Government in the original case?

Mr. WALSH. I am reading from the complaint upon which was entered the decree to which I have referred.

Mr. NORRIS. Exactly.

Mr. WALSH (reading)—

to impress fully upon the said independent how completely it was at the mercy of defendant for its supply of raw material. Among other methods of harassing such independents, defendant used the following:

It would delay forwarding bills of lading, and would refuse to supply independents further with metal, sometimes abruptly ceasing entirely to ship metal without warning or statement of excuse of any kind, or causing its controlled companies to do so, so that the concern affected was unable to fill its orders.

It discriminated against independents as to price for the crude aluminum needed, so that they were unable successfully to bid against or compete with the favored industries and obtain a living margin of profit.

It frequently refused to sell aluminum metal to those desiring to enter the business of manufacturing aluminum goods, thereby preventing an expansion of the industry and restraining trade therein.

It refused to sell others desiring to enter said field any aluminum metal unless they would agree not to engage in any line in any manner competing with the lines of the defendant and its allied companies.

It refused to guarantee quality, and at times delivered to competing plants metal which was known to be worthless and which had been rejected by plants allied to defendant.

The report made by the Federal Trade Commission, to which reference has been made, was made pursuant to a resolution of the Senate of date January 4, 1922, which recited that although prices generally had declined, the prices of household articles remained at unusually high figures; and the Federal Trade Commission was called upon to make a sweeping inquiry as to why it was that these prices remained high. That inquiry covered a very wide scope, and the commission reported in three separate reports.

In the month of January, 1923, it transmitted to the Senate volume 1 of its report, which dealt with the subject of furniture.

In the month of October following, 1923, it transmitted its second report dealing with stoves.

In the month of October, 1924, it transmitted volume 3, dealing with kitchen utensils and household appliances. That volume treated of nine different subjects—vacuum cleaners, washing machines, aluminum cooking utensils, refrigerators, sewing machines, household brooms and brushes, miscellaneous kitchen furnishings, association activities of hardware dealers, and profits of wholesale and retail dealers. The entire report consisted of 347 pages. Fifty-seven of those pages only dealt with the subject of aluminum kitchen utensils. I hold in my hand the section of the report dealing with that particular subject. Of those 57 pages, 14 pages only dealt with alleged infractions by the Aluminum Co. of America of this decree.

The Federal Trade Commission expressed its conclusions with respect to the matter in a brief paragraph, as follows:

Mr. CUMMINS. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Iowa?

Mr. WALSH. I do.

Mr. CUMMINS. I desire to get a clear idea of the sequence of these events. Did the Senate charge the Federal Trade Commission with the duty of making an inquiry under section 5 of the Federal Trade Commission act? That is to say, did it charge the commission with making an inquiry with respect to unfair trade practices or unfair methods of competition?

The Senate, as I remember—the Senator will correct me if I am wrong—did not charge the commission with the duty of inquiring whether the decree of 1912 was or was not violated. It made its inquiry under the power that we granted it in the Federal Trade Commission act respecting unfair methods of competition. That is true, is it not?

Mr. WALSH. I read from the resolution of January 4, 1922, as follows:

Resolved, That the Federal Trade Commission be, and hereby is, authorized and directed promptly to investigate the causes of factory, wholesale, and retail price conditions in the principal branches of house-furnishing goods industry and trade, beginning with January, 1920, and particularly to ascertain the organization and interrelations of corporations and firms engaged therein, and whether there have been and are unfair practices or methods of competition, or restraints of trade, combinations, or manipulations out of harmony with the law of public interest; and if so, what effect the same have had on prices; and serially to report the facts, with its recommendations, at the earliest possible time as different phases of the investigation are completed.

Mr. CUMMINS. It may be of no materiality, but I simply wanted Senators to have in mind the fact that the commission was not charged by the Senate with the duty of ascertaining whether the Aluminum Co. of America had violated the decree of 1912.

Mr. WALSH. The commission was not specifically directed by the Senate to inquire whether there had been any violation of the decree of 1912; but it is the duty of the commission, under the law, to inquire into those matters, and whenever it finds an infraction of a decree, no matter how it learns of it, to report the fact to the Attorney General.

Mr. CUMMINS. Undoubtedly. The Senator from Montana has stated one of the duties of the Federal Trade Commission. It can, either upon application or by direction of the Attorney General, or upon its own motion, inquire into the violation of any decree that may have been entered under the Clayton Act, the antitrust act, or any similar law. I do not doubt that. I do not question the right of the Federal Trade Commission to enter upon this inquiry; but I simply want it to be remembered that the Senate did not charge the commission with that duty.

Mr. WALSH. That is quite true, although I do not see that it is important here.

Mr. BORAH. Mr. President, I can not agree with the construction placed upon this resolution by the Senator from Iowa. It is true that the resolution does not specifically refer to the investigation of the question of whether there has been a violation of the decree; but how could the commission perform its duty of ascertaining whether or not there had been unfair practices without running up against the question of whether there had been a violation of this decree? There is no way by which it could have performed its duty without incorporating this in its findings.

Mr. WALSH. At some later point in the argument I intended to call attention to this provision of the statute, but I might as well do it now.

Subdivision (c) of section 6 of the Federal Trade Commission act reads:

Whenever a final decree has been entered against any defendant corporation in any suit brought by the United States to prevent and restrain any violation of the antitrust acts, to make investigation, upon its own initiative, of the manner in which the decree has been or is being carried out, and upon the application of the Attorney General it shall be its duty to make such investigation. It shall transmit to the Attorney General a report embodying its findings and recommendations as a result of any such investigation, and the report shall be made public in the discretion of the commission.

Mr. CUMMINS. Mr. President, referring to the remark made by the Senator from Idaho, there could be a great many methods of unfair competition that were not restrained in the decree of 1912. I think everyone will recognize that.

Mr. BORAH. Mr. President, this company was operating under a decree. The things which it was permitted to do were found in that decree. When the Federal Trade Commission undertook to ascertain whether or not there had been unfair practices, it must necessarily reach ultimately the question of whether or not the company was living up to that decree.

Mr. CUMMINS. Mr. President, that assumes that the decree prescribed all the methods that might be employed by the Aluminum Co. of America. It did not pretend to do anything of that kind. It enjoined the company from certain practices which it had found to be unlawful; but I still contend that there could be a great many other practices that could be unlawful and in violation of section 5 of the Federal Trade Commission act.

Mr. WALSH. Of course, there might be; but the commission could not possibly explore the area which the Senate directed it should explore without determining whether these particular unfair practices existed.

Mr. CUMMINS. I quite agree to that; and I do not question the right of the commission either to inquire into these facts or to make a report to the Attorney General—not at all. I think it did its duty in that respect; but I am still thinking that possibly the fact that the Senate did not impose upon the commission the duty of inquiring into violations of this decree may be found material before we have finished the discussion.

Mr. WILLIAMS. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Missouri?

Mr. WALSH. I yield.

Mr. WILLIAMS. Does the Senator think it makes any difference whether this company was violating the terms of a decree or was violating the law? What significance has the decree?

Mr. WALSH. It is just simply a matter of the method of procedure. If it is violating the law in such a way that its action also constitutes a violation of the decree, the proper method of procedure is a prosecution for contempt instituted by the Attorney General. If it is violating the law in a matter not covered by the decree, the commission will proceed under another section of its law.

Mr. WILLIAMS. The Department of Justice might proceed, might it not, for a violation of the law rather than for a violation of a decree?

Mr. WALSH. The violation need not necessarily be a violation of the law. Not all unfair practices are prohibited by the law.

Mr. WILLIAMS. The Senator does not mean that the decree went further than the law, does he?

Mr. WALSH. No; I do not. The conclusion of the commission is expressed in a brief paragraph from the report made public on the 6th day of October, 1924, from which I read as follows:

A comparison of these provisions of the consent decree—

That is, those provisions to which I have already invited the attention of the Senate.

A comparison of these provisions of the consent decree with the methods of competition employed by the Aluminum Co. of America described above, especially with respect to delaying shipments of material, furnishing known defective material, discriminating in prices of crude or semifinished aluminum, and hindering competitors from enlarging their business operations appears to disclose repeated violations of the decree. Moreover, the original decree is obviously insufficient to restore competitive conditions in harmony with the antitrust laws, especially with respect to the monopolization of high-grade bauxite lands.

Mr. REED of Pennsylvania. Mr. President, will the Senator yield for a question?

Mr. WALSH. I yield.

Mr. REED of Pennsylvania. Was the opinion from which the Senator has just read the unanimous opinion of the Trade Commission?

Mr. WALSH. I was just about to explain exactly how it was.

Mr. REED of Pennsylvania. I am sorry I interrupted the Senator.

Mr. WALSH. Because so much has been said to the effect that this matter has no better basis than political bias and antagonism, I take the pains to state at this time that the Federal Trade Commission at that time was composed of three Republicans and two Democrats; that this report was the unanimous report of the commission; that is to say, it was the report made by the commission when four of the five members were present, two Democrats and two Republicans, and no voice was raised in opposition to the adoption of this report.

A little later on one of the commissioners, Mr. Gaskill, after the report had been transmitted to the Attorney General, wrote a private letter to the Attorney General, in which he stated that he was not present at the time the resolution of the commission adopting the report was passed, and that he

assumed no responsibility for anything in the report. Commissioner Gaskill, however, has never undertaken publicly to write a dissenting opinion or otherwise to attack any statement made or any conclusion recited in the report.

Mr. President, on the 8th day of October, 1924, the commission passed a resolution, likewise by unanimous vote, to the effect that a typed copy of the report be transmitted to the Attorney General, and that there be transmitted with it also any evidence before the commission supporting the report.

On the 17th day of October, 1924, a letter was transmitted to the Attorney General, with the typed copy of the report, in which it was stated that the evidence would follow speedily.

On the 20th of October, however, the commission sent another letter to the Attorney General, in which it was stated that all the testimony in the case, covering these nine different subjects to which I have referred, amounted to about 5,000 pages and that it would take a great deal of time and needless expense to send copies of all of that to the Department of Justice; and they suggested that instead the Department of Justice send a representative to the office of the commission; that that representative should have access to any of the files of the commission relating to the matter and liberty to take photostatic copies of any of the documents desired by that branch of the Government.

On the 22d day of October that letter was answered by the Attorney General, who stated that the "assistant in charge" would go to the Federal Trade Commission office and make the examination of the evidence in support of the charge. Bear in mind, Mr. President, that was not to be an ordinary investigator, taken out of the Bureau of Investigation, not a layman at all, not a subordinate in the Department of Justice, but that the "assistant in charge" of antitrust prosecutions would himself go there and examine the evidence so that the proper foundation could be laid.

On the 28th day of October Mr. Seymour, the then "assistant in charge" of antitrust prosecutions, sent to John L. Lott, at Tiffin, Ohio, a copy of all three of these volumes I have in my hand, volume 1 dealing with furniture, volume 2 dealing with stoves, volume 3 dealing with kitchen utensils and household appliances, 347 pages in all, of which only 57 had any relation whatever to this charge. Lott had theretofore been with the Department of Justice, and it was intended that he should come back, and the documents were sent to him in anticipation of his return.

That is all we hear about this matter until the 30th day of January, 1925, when Attorney General Stone put out the letter to which attention has already been directed. Count the time. The 6th day of October the report was adopted by the commission. On the 7th it was made public. On the 8th a resolution was passed that it should go to the Attorney General, and it went to the Attorney General on the 17th day of October. November is 1 month, December 2, January 3—3 months and 24 days from the time the resolution was adopted, 3 months and 13 days from the time the report was sent to the Attorney General.

It will be recalled that I stated that on October 22 the Attorney General wrote a letter in which he said that the "assistant in charge" would go to the Federal Trade Commission office for the purpose of examining the evidence. He has not gone from that day to this. No one had gone. The letter of the Attorney General of January 30 was written, not in the light of the evidence at all, but purely, as is therein recited, upon a study of the report alone. That is to say, all the Attorney General and the Department of Justice had before them for that entire period of 3 months and 24 days was this report, consisting of 57 pages, only 14 of which were devoted to infractions of this decree.

An ordinary lawyer who sat down and studied that report should in two hours be able to familiarize himself with everything in it. Two days would be ample time for any lawyer to take those 57 pages and become thoroughly apprised of everything in them. Yet the report lay in the office of the Attorney General of the United States for 3 months and 24 days before a single step was taken toward action in connection with the report.

The letter of the Attorney General reviews the provisions of the decree and the alleged violation thereof in the following language:

> The decree perpetually enjoined the Aluminum Co. of America, its officers and agents, among other things, from—
>
> 1. Without reasonable cause and notice, delaying shipments of material to a competitor;
>
> 2. Refusing to ship, or ceasing to ship, crude or semifinished aluminum to a competitor, on contracts or orders placed, or on partially filled orders;
>
> 3. Charging a competitor higher prices for crude or semifinished aluminum than are charged at the same time, under like or similar conditions, a company in which defendant was interested; and
>
> 5. From furnishing competitors known defective material.

The complaints of competitors, with respect to deliveries and quality of materials furnished, may be classified as follows:

1. Cancellation of quotas;
2. Refusal to promise shipments;
3. Unreasonable delay in delivery;
4. Where two or more gauges of metal are ordered, shipping one kind or gauge and withholding shipment of the other;
5. Unreasonably delaying shipment and then suddenly dumping upon the competitors large quantities of metal shortly after they have been forced to purchase foreign metal to supply their necessities; and
7. Shipping competitors large quantities of materials known at the time of shipment to be defective.

Without attempting to review the evidence submitted in your report, it is sufficient to say that the evidence submitted supports to a greater or less extent the above-recited complaints of the competitors. And especially is this clear and convincing in respect to the repeated shipments of defective materials known at the time of shipment to be defective. This became so common and so flagrant as to call forth remonstrances from Mr. Fulton, of the Chicago office of the company.

These are declarations of one of the company's own officials:

On July 28, 1920, he wrote the company:

"In my opinion the grade of sheet which we are shipping is in many cases considerably below our pre-war standard. * * *

"The last six months we have had some very critical situations with several of our customers on account of the buckled sheet which we have been shipping—so much so that at least two have told us plainly that if they were able to get better sheet they would reject every bit that we had shipped to them. * * *

"Of the sheet on which we have authorized replacement or credit I would say that at least 90 per cent of it should never have left our mills and without any extra expense or trouble to the company should have been caught at the inspection."

On October 21, 1920, Mr. Fulton again wrote the company:

"I think it again of vital importance to call your attention to the class of sheet which is slipping through our inspection department. * * *

"The greatest complaint is in reference to our coiled sheet.

"About three different customers within the last week have stated that they have hardly used any of our coiled sheet on account of the wide variation of gauge, there being as much of a variation as 4 and 6 B. & S. numbers in the same coil. This, of course, indicates nothing but careless rolling and more careless inspection.

"The next most general complaint is our shearing, in that the shearing is not correct to dimensions, especially width."

In December, Mr. Fulton, after an inspection tour of several plants, again calls attention to the complaints and to the defects in materials being shipped. Among other things, he says:

"There are many things which I know the operating end could remedy without delay, which now are causing a great deal of trouble. No doubt one of the biggest sources of our poor sheet is the apparent increased quantities of scrap that we are putting into our 28 sheet. The appearance of the drawn sheets is a direct give-away as to what is going into the metal.

"This is something I have in no way discussed with any of our customers, and have steered them off the track whenever they have brought it up, but went over it thoroughly with Mr. Yolton, and he assured me he would discuss this at length with Mr. Hunt."

There is also to be found this complaint from a Cleveland customer, under date of May 9, 1921:

"Now * * * can your inspectors pass all this up at your mills? This is an idea that I wish you could confer to your mill heads with force enough to get them to take a little interest in it and not burden us with the tremendous expense of running and handling this metal. The mere fact that we send it back for full credit don't mean anything to us, for we are out all the labor, time, and trouble of handling, which is a very expensive proposition."

It is apparent, therefore, that during the time covered by your report the Aluminum Co. of America violated several provisions of the decree. That with respect to some of the practices complained of, they were so frequent and long continued, the fair inference is the company either was indifferent to the provisions of the decree, or knowingly intended that its provisions should be disregarded, with a view to suppressing competition in the aluminum industry.

There does not appear to be much in your record touching the methods of the company since the year 1922.

In order that the department may act with full knowledge of the course of conduct of the company up to the present time I have instructed that the investigation of the facts be brought down to date by the Department of Justice.

This will not interfere in any way with any further investigation which the Federal Trade Commission may find it proper to make.

Very truly yours,

HARLAN F. STONE,
Attorney General.

The next we hear of the matter is 29 days later when Attorney General Stone, being about to leave the department, made an outline for the information of Mr. Seymour and his successor, because Mr. Seymour was about to quit, of the course which the investigation thus ordered by him should take. At the risk of being somewhat tedious, I am going to ask the careful attention of Senators to this plan of investigation. It will be found at page 122 of the hearings and is as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., February 28, 1925.

Memorandum for Mr. Seymour re aluminum industry.

In order that my views in this matter may be left on record, I am sending you this memorandum.

Under date of January 30, 1925, a departmental letter was transmitted to the Federal Trade Commission advising that the exhaustive report by that body concerning the aluminum and other industries, and which was prepared in response to a Senate resolution, indicated on its face that certain provisions of the dissolution decree in the case of the Aluminum Co. of America were violated during the period covered by the commission's report. Inasmuch, however, as there appeared little in the report touching the methods of the company since 1922, a further investigation by Government agents would be necessary in order that the Department of Justice might act with full knowledge of the course of conduct of the company up to the present time. Such an investigation has been ordered and is, I understand, now being proceeded with.

Pursuant to this plan I have approved of the following action:

First. That Special Agent Dunn examine such evidence and documents gathered by the Federal Trade Commission and upon which it based its report that the decree had been violated, as he may deem necessary as well as all documents and complaints filed with the commission since the filing of its report.

Second. That he visit the places of business of the companies engaged in the manufacture of aluminum products and which obtain their aluminum from the Aluminum Co. of America, including those engaged in the manufacture of cast aluminum products, and including also the places of business of companies engaged in the manufacture of aluminum products which are owned or controlled in whole or in part by the Aluminum Co. of America and make such investigation as will indicate whether the decree is being violated, and, if so, in what respects.

Third. If the evidence so examined and obtained shows upon its face any substantial violation of any provision of the decree, then Special Agent Dunn, in company with such special assistant to the Attorney General as may be assigned to this work—probably Mr. Benham—will visit the offices of the Aluminum Co., explain the charges which have been made against it, and afford the company an opportunity to make any explanation and submit any further evidence which it may wish to offer.

Fourth. When all the evidence gathered has been examined it should be assembled in a report to the Attorney General for his further consideration.

HARLAN F. STONE,
Attorney General.

Now, it will appear therefrom that Dunn had actually begun work before the outline was drafted. As a matter of fact he had a conference with Mr. Seymour on the 9th day of February, and on the 18th day of February, four months after this report had been presented to the Attorney General, the investigation began.

In the second place, Mr. President, I want to inquire now, before we go further, why there should be any further investigation at all? If the testimony before the Federal Trade Commission showed a violation of the decree and it was there, why delay about the matter? Why not institute proceedings at once? When the Senate resolution, under which the report to the Senate comes here, was introduced it was hurriedly drawn, and I was laboring under the impression that the statute of limitations prescribed in the Clayton Act of one year was operative and that it became necessary to begin the investigation, in order to see whether there had been violations, within the period of the statute of limitations. But I was in error about that. The one-year statute does not apply at all. The three-year statute of limitations, applicable to all criminal offenses or criminal offenses generally, is applicable. So that if there were violations of the decree during the year 1922, up to the month of October, 1922, they would not be barred until October, 1925. So why delay about the matter? Why ascertain whether there had been violations since 1922 unless it was intended to condone the offenses thus committed during the year 1922 if perchance since that time they have been discontinued?

Now, 16 months have passed since the report was transmitted by the Federal Trade Commission to the Department of Justice and no proceedings are instituted yet. So that every offense committed by the Aluminum Co. for a full period of 16 months from the month of October, 1921, to January, 1923, has been forgiven and acquitted. Every day that there is delay we run the risk of giving immunity to this great monopoly for violations of the solemn decree of the district court. There is no excuse for the delay of a day to make a further investigation if the evidence already accumulated, as declared by the Federal Trade Commission and as declared by the Attorney General, proves that the violations occurred at least during the year 1922.

This letter was not prepared by the Attorney General. It was prepared by Mr. Lott, to whom the work of conducting the investigation under Mr. Seymour had been intrusted. Mr. Lott is still in charge of the proceedings. Under him, as indicated in this outline of plan, the immediate charge of the investigation was intrusted to Mr. Benham. Dunn began his investigation and reported from time to time, as I shall presently explain, to Benham. Benham, however, at that time had been intrusted with the conduct of the prosecutions against the furniture manufacturers and the refrigerator manufacturers pending in the courts in the city of Chicago. Those cases monopolized practically all of Benham's time from the month of February, 1925, until the month of November, 1925, and most of the time he was in the city of Chicago. Bear in mind, this investigation was intrusted to a subordinate in the Department of Justice who was for the greater portion of the time a thousand miles away engaged in the conduct of two great and important lawsuits. Occasionally during the summer he came to the city of Washington, and if Dunn happened to be in Washington at that particular time the two of them conferred concerning the progress of the work to be done.

Now, I want to take up Dunn. Dunn was not a lawyer. Dunn was not an economist. He was not an accountant. He was not a stenographer. He came to the Department of Justice in 1917, went into the Bureau of Investigation, and became attached to the antitrust division in the year 1923. Prior to his coming to the department he had been engaged in office work, he told us, which, of course, means that he had no special training for any line of activity. His first work was to go to the Federal Trade Commission, in accordance with the plan outlined. The Federal Trade Commission, it will be recalled, had offered earlier, on the 17th day of October, to give the Department of Justice access to all of its files and leave to take copies of anything that it had relating to this matter; but on the 16th day of January, 1925, the Federal Trade Commission entered upon a new policy, a departure from the well-established policy and practice of that branch of the Government. The Department of Justice sent a request to the Federal Trade Commission during the month of December for all files that were there in relation to the Chicago Retail Lumber Dealers' Association, against which the department was then prosecuting proceedings. The Federal Trade Commission passed a resolution on the 16th day of January to the effect that it would give to the Department of Justice any evidence it had in relation to that matter, except such as was turned over to it voluntarily by the Chicago Retail Lumber Dealers' Association. So, when Attorney General Stone and Mr. Lott wrote the letter of January 30, 1925, they knew of the change in policy of the Federal Trade Commission, by which it refused to turn over any evidence in its possession coming from a party who was under investigation; and yet it will be remembered that there is nothing whatever stated in the letter of January 30 in relation to that condition of affairs.

But more. A letter was sent under date of February 10 by the Department of Justice to the Federal Trade Commission stating that Mr. Dunn had been designated to make the examination, and, that pursuant to its offer of October 20, 1924, he would like to have access to the files and permission to take copies of any testimony. The Federal Trade Commission on February 11 passed a resolution conformative with its new policy, offering to give the Department of Justice access to all its files except such as it had secured from the Aluminum Co. of America, notifying the Department of Justice of its action on February 19.

Bear in mind, now, that was the 19th of February. This plan of campaign of investigation was made out nine days later; but there is not a mention made in it of the difficulty that would be encountered in getting permission to examine such part of the files and records of the Federal Trade Commission as came from the Aluminum Co. of America. Bear in mind, also, that the Federal Trade Commission said it would not turn this

matter over without the consent of the Aluminum Co. of America.

No effort was made to get the consent of the Aluminum Co. of America, either directly by the Department of Justice or through the Federal Trade Commission; but, Mr. President, in addition to that, whatever power the Department of Justice might or might not have to demand and exact of the Federal Trade Commission this testimony, the Senate of the United States, which ordered the investigation pursuant to which this testimony was secured, could, upon a demand made on the commission, get the testimony, and thus make it available to the Department of Justice. The Department of Justice, however, never came to the Senate and asked its aid in getting this testimony; in other words, the Department of Justice entirely acquiesced in the refusal of the Federal Trade Commission to turn over this testimony, and made no effort of any character whatever to get it, despite the statement made in the views of the minority on this matter. The Department of Justice made no effort to get it, and Dunn proceeded with his investigation without any aid whatever from such testimony as was before the Federal Trade Commission or coming from the Aluminum Co. of America, including this matter to which I have called your attention and which the Attorney General deemed of such great importance that he incorporated it in his report; that is to say, letters passing between the officers of the Aluminum Co. at Pittsburgh and their agents in the field.

Mr. KING. Mr. President, will the Senator from Montana suffer an interruption?

Mr. WALSH. I yield.

Mr. KING. Does the Senator, before he concludes, intend to discuss the legality or propriety of the conduct of the Federal Trade Commission in promulgating the order of January 16, 1925, which was followed by a similar order with respect to the Aluminum Co. of America a few weeks later, which restricted the power of the Attorney General to investigate the files in the office of the Federal Trade Commission?

Mr. WALSH. No; I do not intend to do that. I intend to narrow this discussion, if I can, to the question of whether the Department of Justice has honestly and diligently prosecuted this inquiry. It is exceedingly important to consider at the right time the question of whether the Federal Trade Commission acted in disregard of the solemn injunction of the law in its proceedings, but that is aside from this question.

In that situation of affairs Dunn began his work. He first went to the Federal Trade Commission to examine the files there. When he went there he did not talk with a member of the commission about his inquiry; he did not talk with a single investigator of the Federal Trade Commission who had conducted the inquiry; he did not talk with any of the economists who reviewed the testimony, nor with the members of the commission which finally passed upon it. He did not take a copy of a single piece of paper before the Federal Trade Commission. He did not take a copy of a single statement made by any witness and taken down stenographically by the investigators of the Federal Trade Commission. He made notes of what there was before the commission, and, armed with those notes, and with those notes alone, he went out into the field to conduct his investigation, and when he got through with that he destroyed the notes.

More than that, Mr. President, he did not even take with him upon his investigation a copy of the report of the Federal Trade Commission itself that gave rise to the inquiry and that recited much of the important evidence that was before the commission. He offered as an excuse that the report had not been printed; but, Senators, I call your attention to what the report was. It consists of 57 pages only 14 of which deal with infractions of the decree. The work of making a typewritten copy of the entire report would not occupy a copyist more than two days, and the work of copying the 14 pages dealing with infractions of the decree would not consume more than a few hours.

Worse than that, Mr. President—and hereby hangs an interesting tale—he did not take with him a copy of the most illuminating report made by a careful and intelligent investigator of the Federal Trade Commission later than the report to which I have called attention. In the year 1922, after the general investigation had been entered upon, one of the users of aluminum, a manufacturer conducting a large business in the city of Detroit and using large quantities of aluminum in his work, finding his relations with the Aluminum Co. altogether unsatisfactory, insisting that they were proceeding in violation of the decree of 1912, went to the Department of Justice and wanted them to investigate the matter. He hung around the corridors of that department for a long time until he finally become tired and went over to the Federal Trade Commission. He laid before that commission the same condition which he had laid before the Department of Justice and wanted them to do something about it—to institute proceedings under the Federal Trade Commission act for unfair practices. The commission tried to ascertain whether the Department of Justice was going on with the investigation which he had asked them to make, and the commission delayed for a considerable time in order to allow the Department of Justice to conduct that investigation; but, despairing eventually of anything being done by the department, they directed that the complaint of this manufacturer be followed up and investigated upon their own account.

The commission sent out upon that work a fine, clever young man, a keen-minded lawyer, one I. W. Digges. He went out, and in the month of May, 1924, submitted to the Federal Trade Commission an elaborate report, to which I shall later call attention in detail, which report showed complaints of the most serious character from many of the users of aluminum throughout the country.

Dunn did not take a copy of that report. I doubt whether he knows of its existence. He never talked with Digges about whom he had seen or what he had done or sought to get any information about the matter from him. He went out upon this field of inquiry. He started on the 12th day of March, 1925, and was out in the field until the 12th day of April.

I should say in this connection that, beginning about the 18th or 20th of February, he was engaged at the Federal Trade Commission looking over that work until about the 12th day of March. It is in evidence that he spent about 10 or 12 days there at that work. The views submitted by the minority say 15 days. Well, let it go at that. All together he covered a period of about 3 weeks, 15 days of which were spent actually, according to the views of the minority, in making this examination——

Mr. GOFF. Mr. President, will the Senator permit an interruption?

The PRESIDING OFFICER (Mr. WADSWORTH in the chair). Does the Senator from Montana yield to the Senator from West Virginia?

Mr. WALSH. I yield to the Senator.

Mr. GOFF. I should like to call the attention of the Senator from Montana to page 415 of the testimony, where this question was asked:

> Senator WALSH. What do you know, Mr. Digges, about any examination of the evidence thus accumulated by you by any agent or representative of the Department of Justice?
>
> Mr. DIGGES. I think there was no examination made of that. My own recommendation to the commission was that that examination be not permitted.

Does not that explain why Mr. Dunn did not examine that record?

Mr. WALSH. Not at all. The Attorney General in his letter to the Federal Trade Commission said that he desired to have his representative examine not only the evidence taken by the Federal Trade Commission in connection with the resolution of the Senate under which it acted but also all other evidence and documents coming before the Federal Trade Commission since that report was filed. Then, Mr. President, the Federal Trade Commission itself offered to put at his disposal any information that it had, except such as came directly from the Aluminum Co. of America.

Dunn's examination began on the 18th of February. He went into the field on the 12th of March. He was out for some time, and returned on the 6th of April. He went out again on the 1st of June, and returned on the 19th of June. He went out again on the 9th day of July, and returned on the 18th of July. In all, the time covered in the examination was some four months, from March to July—that is, April, May, June, and July—four months and six days, to be exact. Of that four months and six days, he was in the city of Washington two and a half months, 75 days; he was in the field 53 days; and it took him 22 days in the city of Philadelphia to write out his report.

That report was submitted on the 10th day of August, 1925. It will interest you to know, meanwhile, just exactly what the head of the Department of Justice, the Attorney General, knew about these proceedings, what part he had in them. They are summarized in an article appearing in the New York World of January 12, 1926, which epitomizes them perhaps better than I could do. I read the article entitled:

GRANITE FROM VERMONT

To put this story in its proper setting it is necessary to remember only that when Attorney General Sargent took office an inquiry into the Aluminum Co. of America was pending in the Department of

Justice. The Aluminum Co. of America is a rich monopoly, tariff protected, selling millions of dollars' worth of goods to the American public annually. One of its chief owners is Mr. Sargent's colleague in the Cabinet, Andrew Mellon.

Within two months of Mr. Sargent's taking office Mr. Sargent's predecessor, Attorney General Stone, had publicly declared in a letter dated January 30, 1925, that the Aluminum Co. had "violated several provisions of the decree" of the courts against it. What happened next is told in these answers of the incoming Attorney General to questions asked him by a committee of the Senate:

How did you first hear of this affair? "There was an inquiry made by some newspaper man about it."

When? "I do not know."

What did you say to the newspaper man? "I think I told him I did not know about it."

Do you know whether or not you told him you were aware of the existence of the Stone letter? "I think I told him that I did not know anything about such a thing."

How, then, did you hear of the Stone letter? "Somebody, at some time, asked me if such a letter had been called to my attention."

Who? "Newspaper men."

When? "I never knew definitely about it until I had been there five or six or eight months." (That is, August 19 or September 19 or November 19.)

The above answer amended: It may have been even later? "That might be so."

The above answer once more amended: "My attention was called to the matter as early as March 25."

Well, whenever you did hear of it, what did you do next? "I spoke to Colonel Donovan several times."

When? "I do not know."

When was the first time? "I do not know."

When was the last time? "I do not know."

Did you ask Colonel Donovan to go to the Federal Trade Commission for the data which the commission had, and do you know if the commission gave Colonel Donovan any evidence, documentary or otherwise? "I can not say. But I remember this one thing: That some of them told me about going over there and getting some files."

Is that about as definite as you can put it? "That is about as definite as I can put that."

Well, can you tell us, then, how much of the Trade Commission's data your office ultimately did receive? "I could not tell you."

Did you make any inquiry about that? "I have not."

You can't tell us whether, since the Stone letter was written, there has been any correspondence between your department and the Trade Commission on the subject of this data? "No; I am not sure there has been any correspondence since that date."

Did you make any effort on your own part to obtain this data? "Personally I have done nothing."

Did you ever read the report of the Trade Commission to which Attorney General Stone referred? "I have read so much of it. I have not read it all the way through."

Did you know that the Trade Commission voted not to turn over to your office the information it had obtained from the Aluminum Co.? "What is said there is something that I never heard of until now, until you read it."

If the Trade Commission can hold back data this way, what good is an investigation? "I can not tell you. I have never undertaken to work the thing out."

Do you think the commission itself should be left the sole judge of whether it need or need not turn over any information? "I suppose somebody must have the authority to review the matter."

Who? "I suppose the question could be determined by some proceeding to find out whether they shall surrender it or not."

How would you go about it? "I do not know. I do not think it has been tested out."

Any hope left that you will ever obtain that information? "I have not formed any purpose about it."

Why? "This thing never was called to my attention until yesterday. I do not know the law on the subject."

And yet, despite all this, when Mr. Sargent had been six days in office he instructed his subordinates to talk to him about aluminum "before any action whatever is taken or any publicity given."

The Stone letter will be 1 year old two weeks from Saturday. Perhaps Mr. Sargent may not be aware of that. It may not have been called to his attention. He remains, meantime, the Attorney General of the United States and the chief bulwark of the average man against predatory trusts. And he assures us—

"I go to my office at 8 in the morning and stay to 7 at night and devote my entire attention to seeing that things go right."

Mr. President, I have now called your attention to the fact that the Dunn report was handed in on the 10th day of August, 1925. His conclusions are expressed in a few brief paragraphs, which I desire to read:

RESULTS OF THE INQUIRY

Generally speaking, this inquiry has not disclosed that any of the practices on the part of the Aluminum Co. of America, heretofore complained of, are now followed by that company.

Bear in mind, the language is, "are now followed by that company. Of course, if they were followed at any time within three years there would be a violation of the decree; but he says they are not now followed by that company.

Mr. PITTMAN. What is the Senator reading from?

Mr. WALSH. I am reading from the report of Dunn, the man who, as I told you, was neither a lawyer, an economist, an accountant, nor a stenographer; the man who went out and spent 53 days in the field and 75 days in the city of Washington, and took 22 days to make his report, which was the result of 53 days' study in the field.

Generally speaking, this inquiry has not disclosed that any of the practices on the part of the Aluminum Co. of America, heretofore complained of, are now followed by that company. Moreover, from statements made to me by various individuals there is reason to believe that some of the complaints, previously made, were not genuine and reasoned complaints, but were, on the other hand, inspired by hysteria and a purpose to stimulate by any means service on the part of the Aluminum Co. of America. * * *

In any event, it is now the unanimous opinion of all individuals interviewed that for the past three years conditions with respect to metal supply have been entirely satisfactory. All agree that ample supplies of aluminum are readily obtainable under satisfactory conditions as to delivery.

Now, I want to read you Digges's report of May 24, 1924, the report of a lawyer, made just before and covering exactly the same period. I read from his report, which we got through the order of the Senate made 10 days ago, directing the Federal Trade Commission to transmit to the Senate everything it had on this subject.

He says:

Your attorney will conclude that the Aluminum Co., its officers, and the United States Aluminum Co., a subsidiary of the Aluminum Co., have combined together to put into effect, and have actually put into effect, a policy which will result in the elimination of independent sand-casting foundries. The component parts of this policy have been:

(1) Lease of Aluminum Manufacturers (Inc.) for a 25-year period.

(2) Price discrimination in favor of Aluminum Manufacturers (Inc.) and against independent foundries.

The Aluminum Manufacturers (Inc.) is one of the subsidiaries controlled by the Aluminum Co. of America.

(3) Discrimination in deliveries against certain companies.

(4) Cornering the market for secondary aluminum.

(5) Taking business below cost in the foundry department.

(6) Refusing to sell certain competitors in fabricated parts their necessary requirements of the raw product.

(7) Entering into some sort of a working arrangement with foreign producers.

(8) Price discrimination in favor of manufacturers' foundries and against independent foundries.

The theory on which the recommendation will be based is that where there exists a monopoly in a fundamental commodity, and the officers of that monopoly, either directly or through subsidiary companies, combine together to eliminate the customers of the monopoly, with whom the monopoly is in combination, the situation is the same on principle as where competition exists in the sale of the commodity and there is a combination among parties of adverse interest to restrain trade. The reasoning will be that of public policy.

Mr. SMITH. Whose report is this?

Mr. WALSH. This is the report of Mr. Digges, who made the investigation for the Federal Trade Commission just before Dunn made his investigation.

I shall call your attention a little later to the fact that Digges interviewed a large number of producers whom Dunn never even visited, and I shall tell you what they said, to apprise you as to whether everything is perfectly satisfactory with the users of aluminum in the United States.

I want to follow, however, the work of the Department of Justice.

The Dunn report coming in on the 10th day of August, in the following month of September a letter was sent to Mr. Davis, the president of the Aluminum Co. of America, asking him to come in for a conference. He did not come in until the month of October, and when he came in he was asked whether he was willing to allow the books and records of the Aluminum Co. of America to be examined by the agents of the Department of Justice, and he answered that he was.

Of course—what else could he do? To refuse access to them would be practically an admission of guilt upon his part.

Bear in mind that in the month of October he signified his perfect willingness to have these books and records examined; and, of course, it is presumable that if he had been asked in the month of February or March, he would have permitted the examination to be made before Dunn went out at all, and there would not have been any trouble about the refusal of the Federal Trade Commission to allow this testimony to be examined.

There is another matter to which attention should be directed. If the Department of Justice had proceeded promptly after it got a copy of this report on the 17th day of October and had sent at once an attorney to examine the files before the Federal Trade Commission, as the Attorney General said would be done by his letter of October 22, in all probability there never would have been any trouble about getting the evidence that was furnished by the Aluminum Co. of America, because the reversal of that policy did not take place until the following January.

Davis agreeing in October to allow the books to be examined, in the month of November Dunn and Benham were sent to Pittsburgh to make the examination. Bear in mind, the Dunn report came in in August. Benham was engaged in litigation out in Chicago, busy until the month of November, and the examination of the books did not commence until three months after the Dunn report came in. Then they made an examination of the books until sometime early in December, when an accountant whom they had secured for aid in the matter desired to have some tables prepared by the Aluminum Co. of America, which were furnished in the month of January, and the investigation was resumed on the 4th day of January of the present year.

So 16 months have gone by, as I have heretofore stated, since this report came to the Federal Trade Commission, and every act in violation of this decree during that long period from October, 1921, until February, 1923, has been condoned and forgiven to the Aluminum Co. of America. Sixteen months this examination has taken so far, and the end is not yet, for we have no report upon it. But away back last spring Mr. Lott, under whose direction this examination was to be conducted, said that he expected it would take about two months to complete it. I read from a memorandum prepared by Mr. Lott for the information of Colonel Donovan, under date of April 8, 1925, which appears at page 421 of the record as follows:

> I am advised that the Washington Star of last evening carried a story to the effect that the investigation of the aluminum industry had been completed and was ready for report.

Already, Mr. President, away back in the month of April last the public had become interested in the delay of this investigation, and a rumor was current that the report was forthcoming. He continues:

> I did not see the article. I have not given out anything whatever upon the subject, nor will I do so; my duty being to make report to you. The fact is that the investigation has not been completed and it may require two months in which to complete it.

It has taken those 2 months, and it has taken 10 months more, and is not yet completed.

The Federal Trade Commission had the Digges's report before it. They felt that it was desirable that they go forward, but they did not want in any wise whatever to embarrass the Department of Justice, and they were withholding action upon the Digges's report to await the determination of the matter by the Department of Justice. So they sent their chief counsel to the Department of Justice to ascertain from them how soon they would be likely to complete their investigation and go forward with the proceedings, if they were to institute them. The chief counsel came back and reported that he had had a conference with Mr. Lott—this is under date of May 11, 1925—and he said:

> Mr. Lott stated that he expected the investigation to be completed and his final report in the case made within six weeks.

On the 2d of January last, no report having been made upon the matter, the Assistant Attorney General, Mr. Donovan, gave to the press a statement, as follows:

> The department has sought through all available channels to ascertain all facts connected therewith and has embraced in its inquiry interviews with customers and competitors of the Aluminum Co. of America, together with interviews with its officials and a careful examination of its record, particularly such records as would reflect the truth or falsity of the complaints which have been made. Although this inquiry is not yet completed and the report is yet to be prepared, it may be stated that the facts thus far disclosed do not support the oft-repeated charge that the decree in question has been violated.
>
> When the investigation is terminated and the final report is received, which it is expected will be within the next three weeks—

That was on the 2d of January last—

> the Attorney General will finally decide whether the facts disclosed warrant any action either under the decree or by the way of a new proceeding and will make known his conclusions. The foregoing statement, however, reflects the situation as it appears from the data thus far obtained.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). Does the Senator from Montana yield to the Senator from Iowa?

Mr. WALSH. I yield.

Mr. CUMMINS. I may say that I am informed by the Department of Justice that the investigation has been completed, that the report has been made, and that the Department of Justice has reached a conclusion with regard to this matter.

Mr. WALSH. So I observed by the report filed by the Senator this morning. It has reached the conclusion that there has been no violation of the decree.

Mr. CUMMINS. It is not in the report I filed. I have the conclusion in my hand, which I will present when the proper time comes.

Mr. WALSH. I want to invite attention to a few things mentioned in this statement. In the first place, reference is made to this sentence:

> Although this inquiry is not yet completed and the report is yet to be prepared, it may be stated that the facts thus far disclosed do not support the oft-repeated charge that the decree in question has been violated.

Who made this oft-repeated charge? It was made by the Federal Trade Commission in the first instance, by four of the five members of the Federal Trade Commission, two of whom were Republicans, the other member not being present at the time.

Who else was it who made this charge, and repeated it? It was made by John L. Lott, who drafted the letter of Attorney General Stone of January 30, 1925, the man who to-day is in charge of the proceedings.

It was made, sir, by Harlan F. Stone, the Attorney General of the United States, now Associate Justice of the Supreme Court of the United States. Those are the sources from which this charge emanated, and by whom it was repeated.

Mr. GOFF. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from West Virginia?

Mr. WALSH. I yield.

Mr. GOFF. Is it not a fact that the statements to which the Senator from Montana has just referred were based entirely upon the report of the Federal Trade Commission, and not on any investigation independent of that source?

Mr. WALSH. I presume so. I do not know of anybody who knew anything about it except the Federal Trade Commission and the Department of Justice.

Mr. GOFF. I thank the Senator. That answers my question.

Mr. WALSH. I suppose probably every newspaper in the country which carries Associated Press dispatches repeated this story. But why should it be mentioned by the Attorney General of the United States, or the Assistant Attorney General, that it was an oft-repeated charge that was not sustained at all?

I want to call attention to a few features of this. It states:

> Although this inquiry is not yet completed and the report is yet to be prepared, it may be stated that the facts thus far disclosed do not support the oft-repeated charge that the decree in question has been violated.

Bear in mind that at that time the investigation of the books and records of the Aluminum Co. of America was suspended. It had been conducted from the month of November into the month of December, and on the stand the Attorney General was obliged to admit that until the examination of the books and records of the Aluminum Co. of America had been completed, it would be impossible to tell whether there had been any violation of the decree with respect, first, to cancellation of orders; second, refusal to promise shipments at a definite date; third, delay in shipments as between seasons; and, fourth, dumping after foreign purchases.

He was utterly unable to say whether there had or had not been a violation of the decree with respect to any one of those four charges. Yet in this public statement he tells the country that the evidence thus far taken discloses that there is no

foundation for the oft-repeated charge that there has been a violation of the decree.

I call attention to the conclusion of Dunn and the conclusion of Digges. Digges's investigation was conducted with reference to specific charges relating particularly to unfair practices in the matter of production and sale of what are known as sand castings. That is to say, his testimony was gathered on the second investigation conducted by the Federal Trade Commission and not along the general line that had been followed by the commission as a result of which it made this report, volume 3. But they did, as a matter of fact, cover exactly the same thing; that is to say, in following out the question as to whether a violation had occurred, Dunn is supposed to have covered the feature of sand castings, just as Digges is.

I want to show that Dunn and Digges covered exactly the same field, Dunn reporting no complaints whatever; and then I will show what Digges found. Dunn says in his report, as found on page 240, as follows:

Investigation of conditions in the sand-casting phase of the aluminum industry was not so comprehensive as in the case of the aluminum utensil industry, though such inquiry as was made did not indicate that there was at that time any complaint as to the activities of the Aluminum Co. of America in this phase of the industry, nor did such inquiry as was made disclose any information which would indicate that the Aluminum Co. of America was pursuing any methods which would indicate an attempt on its part to control or dominate the scrap aluminum market.

Then he continued:

It is my belief that much of the information upon which the Trade Commission based its recent complaint against the Aluminum Co. of America was acquired during its earlier inquiry in connection with the work done in response to the Senate resolution above referred to, and having in mind the information furnished in response to an inquiry made by this department during the early part of this year it is quite possible that practices are charged against the Aluminum Co. of America which have, as a matter of fact, been long since discontinued. It should be noted here that none of the information or evidence underlying the Trade Commission's recent complaint has been made available to this department.

"None of the evidence underlying the Trade Commission's recent complaint has been made available to this department"; but, Mr. President, the Attorney General demanded it, the Federal Trade Commission offered it, and if it was not made available it was simply because Mr. Dunn did not call for it.

I want to read from the plan of inquiry outlined by Stone under date of February 28:

First. That Special Agent Dunn examine such evidence and documents gathered by the Federal Trade Commission and upon which it based its report that the decree had been violated, as he may deem necessary, as well as all documents and complains filed with the commission since the filing of its report.

I now read from the letter of the commission offering to turn this over, under date of February 19, 1925, as follows:

The commission will be glad to furnish the information requested, and will afford Mr. Dunn every facility in his examination of the files, except that the information and evidence which was furnished voluntarily to the commission by the Aluminum Co. of America, including information and evidence from its files, will be made available only upon the consent in writing of the Aluminum Co. of America that the material voluntarily furnished by them be made available to the department.

That is the only reservation the commission made.

Mr. President, it becomes important to consider how much credence is to be placed in the Dunn report as to whether there was any violation of the decree as disclosed by the evidence before us.

I called attention at the outset to what Attorney General Stone conceived to be evidence entirely conclusive that the Aluminum Co. of America had been sending to customers defective material, which it must have known was defective at the time it was sent. That was established not by evidence of witnesses by word of mouth but actually by letters passing between the agents of the Aluminum Co. in the field and the home office at Pittsburgh. But in that report there is another thing to which I direct attention. At page 44 of the hearings will be found the following, quoted from the report of the Federal Trade Commission, which was sent to the Attorney General:

Delays in deliveries: A prominent manufacturer of cooking utensils made the following statement in August, 1923, quoting from the stenographic report of the interview:

"Deliveries have been very poor this year. In 1919 they almost broke us. * * * We were closed down 20 per cent of the time, and in 1920 we only ran one full month, * * *. They are now making 60-day deliveries. They have been making 60 to 90 day deliveries since last September. The deliveries are absolutely out of our hands and we have no say. * * * I know of one instance where metal that was bought in February has not been delivered yet."

This was in August, 1923.

The purchasing agent of another company informed the commission that deliveries were not made as stipulated in the contracts and, moreover, that it was difficult to get any authoritative information on one's orders. He further stated that he had never been able to determine whether this was purposely done or resulted from the large volume of business as a result of which they were unable to keep in proper touch with their various branches.

Bear in mind that under date of August 10, 1925, Dunn reported that for the last three years there had not been any cause for complaint at all. What about this prominent manufacturer who tells these things? What about this sales agent who told these things to the investigator of the Federal Trade Commission who took the statement down stenographically? Why, Dunn does not know anything about them. He did not take a memorandum from the records of the Federal Trade Commission as to who the prominent manufacturer was nor who the sales agent was, nor did he interview them with respect to the charges that are made by them at all.

Now, with reference to delays in delivery, the Federal Trade Commission report states that they tried to get from the Aluminum Co. of America tabular statements showing the promptness with which they filled orders for aluminum. They were able to get information from the Aluminum Co. of America only with reference to seven particular customers, and then only for the year 1922 and the first six or eight months of the year 1923. They got no information from the Aluminum Co. of America concerning deliveries in 1920 and 1921, when confessedly there was great delay in the deliveries, but they got the information with reference to 1922.

They asked for information showing the time that the deliveries were made, first, within 30 days of the time when the orders should have been filled—that is, during the month when they should have been filled; but the returns came in from the Aluminum Co. of America only with reference to shipments during the month when the orders were to be filled and the following month—that is to say, within two months—and the records at page 45 are tabulated thus:

For the 12 months of 1922 only 66.26 per cent of the Aluminum Co.'s obligations were shipped in the month when the obligation matured or within one month thereafter. Only 25 per cent of the obligations were shipped in the second month after maturity, and 7.69 in the third month.

The next table shows that the record for the first six months of 1923 was somewhat better, approximately 75 per cent of the obligations having been shipped in the month due or within one month thereafter, 1.77 per cent in the second month, and 6.60 in the third month.

It will be understood as a matter of course, Mr. President, that the users of aluminum, the manufacturers of goods into which aluminum enters, were obliged to make their contracts by which they agreed to deliver their products at a definite time, and they could not get the raw material with which to manufacture the goods to fill their orders within 30 days, within 60 days, within 90 days, and in some instances within 6 months of the time when they were in need of the material.

Mr. GOFF. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from West Virginia?

Mr. WALSH. I yield.

Mr. GOFF. Will the Senator refer to the page of the record from which he was reading?

Mr. WALSH. Page 45. For instance, one of those companies during the year 1922 got only 57.09 per cent of the quantity which it had ordered within the month that it was due or within the following month. Another company got only 55.15 per cent of the quantity which it ordered within the month that it ordered or within the following month.

Mr. CUMMINS. Mr. President——

The PRESIDING OFFICER (Mr. COUZENS in the chair). Does the Senator from Montana yield to the Senator from Iowa?

Mr. WALSH. I yield.

Mr. CUMMINS. That statement is material only if there be discrimination shown, I suppose?

Mr. WALSH. Not at all.

Mr. CUMMINS. It is no violation of the decree for the Aluminum Co. of America to fail to fill its orders if it was unable to fill its orders and if it treated everybody alike.

Mr. WALSH. Yes; if it was unable to fill its orders there was no violation of the decree. I am proceeding to establish that it had abundant ability to fill its orders.

Mr. CUMMINS. Nothing so far has shown that.

Mr. WALSH. Certainly not; but I can not do everything at one time.

Mr. CUMMINS. I am not criticizing the Senator.

Mr. WALSH. I am going to establish by its own record that the Aluminum Co. of America had a superabundance of capacity to fill the orders, so much so that it applied to the Commissioner of Internal Revenue for an amortization allowance of a very considerable amount, because it had expended its capacity during the war to meet war conditions beyond the capacity that was necessary in ordinary peace times. We will come to that in just a moment.

Another feature about the delay is that in the months when business was slack and there was no particular hurry about the matter then the product would come along in great quantities, but during the peak months, when the demand was great, deliveries would fall down. For instance, at page 67, we have the same companies during the slack periods, one of them getting 91.56 per cent of its orders within the month or the month following when it was due and another getting 87.54 per cent, but during the peak period the company first mentioned got only 37.02 per cent of its orders filled, and the company second mentioned got only 30.28 per cent.

Now, about the capacity to fill orders. I read from page 44 of the hearings, being the Federal Trade Commission's report:

E. K. Davis, the sales manager of the Aluminum Co. of America, stated in an interview that that company was unable during the early part of 1920 to meet the demands of its customers. He stated further that their sheet mill at Alcoa, Tenn., was completed in August, 1920, and that since that time they have had ample sheet capacity to take care of any demands that might be dumped upon them.

The figures I gave were for the year 1922 and the first six months of 1923, when, according to the statement of the sales manager of the Aluminum Co. of America, they had capacity to take care of any orders that were dumped upon them, however great they might be.

But the president of the company, Mr. A. V. Davis, had an explanation to make, which was as follows:

When questioned regarding the ability of the Aluminum Co. of America to supply all the sheet metal required by the different industries, A. V. Davis, president of the Aluminum Co. of America, made the following statements, quoting from the stenographic report of the interview:

"In the first place, unless you get clearly into your head the difference between a shortage of ingot and a lack of rolling-mill capacity, you do not comprehend the situation at all. There never has been a shortage of rolling-mill capacity on our part. * * * Whatever shortage there has been in the sheet business is a reflection of the shortage in the ingot business.

That is to say that the material comes out of the smelter in the shape of ingots and then goes into the rolling mill and is rolled into sheets. Confronted with the statement of the sales manager that they had ample capacity for 1920 to meet all demands, we have an alibi: They have ample sheet capacity, but the ingot capacity is lacking, apparently; the smelting capacity is lacking. The bauxite is treated just the same as any other ore, by concentration and smelting, I assume, and is made, as I stated, into ingots. Of course, in expanding a plant for war purposes it would be just as necessary to expand the ingot capacity as it would to expand the sheet capacity, and unless these people are governed by principles of trade and development different from those that actuate people generally they would expand their facilities, as a matter of course, harmoniously, so as to make a finished plant. It appears they did so. So we have here in the Digges report an interview with Robert Byrnes, in charge of the New York office of the Aluminum Co. of America, at 120 Broadway. The report says:

Mr. Byrnes was then asked if during the last three years Al. Co.—

That is an abbreviation for Aluminum Co. of America—

had operated to capacity in the production of ingots.

That was January 18, 1924. Three years back would be January 18, 1921.

Mr. Byrnes was then asked if during the last three years Al. Co. had operated to capacity in the production of ingots.

This question he answered in the negative, and stated that at one time Al. Co. was forced to carry a 30,000,000 surplus in ingots, due to the entire lack of demand for this metal.

Not only were they able to meet every demand for ingots, but they were obliged to carry an extraordinarily high quantity in stock because of the lack of demand.

This brings us to the interesting story of the application for amortization before the Commissioner of Internal Revenue, the whole story of which was told in the Couzens report. The Aluminum Co. of America made an application before the Commissioner of Internal Revenue for a reduction in the amount of taxes with which they were charged, averring that, in order to meet the extraordinary demands of the war, patriotically they had expanded their plant, extended their facilities to such a degree that their plant was away beyond the capacity of ordinary peace times, and that having done this merely to help out in the war, they ought to have a credit for it in their taxes.

Mr. KING. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Bayard	Fess	McKinley	Sackett
Bingham	Frazier	McMaster	Sheppard
Blease	George	McNary	Shipstead
Bratton	Gillett	Mayfield	Shortridge
Brookhart	Glass	Metcalf	Smith
Bruce	Goff	Neely	Stephens
Butler	Gooding	Norris	Swanson
Cameron	Hale	Nye	Trammell
Capper	Harris	Oddie	Tyson
Couzens	Harrison	Overman	Wadsworth
Cummins	Heflin	Pepper	Walsh
Curtis	Howell	Phipps	Warren
Dale	Jones, Wash.	Pittman	Watson
Deneen	Kendrick	Ransdell	Weller
Edge	King	Reed, Pa.	Wheeler
Ernst	Lenroot	Robinson, Ark.	Williams
Ferris	McKellar	Robinson, Ind.	Willis

Mr. REED of Pennsylvania. I desire to announce that the Senator from Utah [Mr. SMOOT], the Senator from Connecticut [Mr. MCLEAN], the Senator from North Carolina [Mr. SIMMONS], and the Senator from Rhode Island [Mr. GERRY] are detained from the Senate, being engaged on a conference committee.

The PRESIDING OFFICER. Sixty-eight Senators having answered to their names, a quorum is present.

Mr. WALSH. Mr. President, the Aluminum Co. of America represented that it had expanded its capacity during the war in order to meet demands of that time, so that it had a capacity to produce annually 156,000,000 pounds of aluminum, while the average postwar demand or consumption was not in excess of 87,000,000 pounds; that is to say, that only 56 per cent of its facilities were in use while 44 per cent remained idle. It therefore asked a credit by way of amortization to the amount of $6,852,000. Subsequently it concluded that that was not enough and amended its demand, so that finally it reached the sum of $18,124,000. It secured an allowance for amortization upon this account of $15,152,000. Then it came back again and increased its demand until it eventually became $18,268,000. The claim was finally adjusted by making an allowance of $15,589,000 on account of overcapacity.

The Digges investigation, as I have stated, concerned itself with the subject of sand castings. For the purpose of making products of this character, automobile crank cases, and other material of that character scrap was used to a very large extent. That is to say, in all manufacturing establishments using the sheet aluminum, in cutting out the material, as in a tailor shop, a large quantity of the material becomes useless and drops to the floor and is gathered up. There were a considerable number of establishments in the country which bought up this scrap from the various manufacturers, remelted it, and then rolled it out and sold it in the market in competition with the Aluminum Co. of America to any manufacturer who might want to buy that instead of buying the virgin sheet metal. Thus there was a considerable competition developed in the sale of sheet metal to the various manufacturers.

This is by no means an inconsiderable quantity. In a public statement given to the press on September 27, 1924, Mr. Andrew W. Mellon—who, I believe, it is understood generally is the dominant factor in the Aluminum Co. of America, practically the whole thing being owned, according to the Federal Trade Commission's report, by himself and his brother, Mr. R. B. Mellon—gave out a statement to the effect that the scrap material turned into sheet constituted about one-third of all of the sheet metal on the market, as I understand his statement. This is what he said about the matter.

Discussing the opportunities of American manufacturers to supply themselves with aluminum from abroad, he continued:

In addition, scrap aluminum, constituting at least a third of the metal used, is entirely beyond the control of the manufacturer of aluminum ingots. No monopoly in the aluminum industry exists.

But if it did not exist at that time, Mr. President, it exists now; and it exists now because the Aluminum Co. of America deliberately resolved upon a plan to put the purchasers of scrap and the producers of ingots from scrap out of business. This is disclosed by the following letter from Mr. Edward L. Cheyney, in charge of the office of the Aluminum Co. of America at Cleveland, Ohio. I read from a photostatic copy of that letter under date of September 9, 1922, addressed to Mr. Edward K. Davis, of the Pittsburgh office. He says:

I was in Detroit last Friday and spent most of the day talking to Byrnes and Youngs about the feasibility of our controlling the market on aluminum scrap and the advantages to be gained to us, and principally to our sand-casting business, by boosting the price of scrap as close to the price of new metal as possible. I described a scheme to you when I was talking to you in Pittsburgh, and it involves nothing more than deciding for ourselves upon an arbitrary differential between the price of new ingot and the price of reclaimed scrap, and in buying enough scrap ourselves for use in the castings plant to put the price of scrap to that level and to hold it there.

The effect will be to put all jobbing foundries, including our own, on the same metal level; to permit us to take full advantage of the products of the recovery plants at Niagara Falls and at Cleveland; and to permit us also, by means of the products of these recovery plants, to offset, where necessary, any peculiar advantages in manufacturing conditions that some of our competitors may enjoy.

I outlined the scheme to Byrnes and to Youngs, and for half a day we tried to pick flaws in it, and the only possible flaw that any of us could see in the scheme rested in the fact that none of us were quite certain as to the relation between the total tonnage of scrap offered for sale and the tonnage of casting business offered by the trade.

I talked this feature of it over with Mr. Head, who was of the opinion that scrap prices could be held up to an arbitrary level by the purchase of perhaps considerably less than half of that which is offered.

I would like to sit in a meeting one of these times, called for the purpose of throwing stones at this idea, and then if nobody can smash it I would like to see the management proceed with it.

EDWARD L. CHEYNEY.

You will understand, Mr. President, that the price of scrap, of course, is considerably below the price of virgin metal. In the first place, it is not so desirable; in the second place it costs, as a matter of course, considerable to handle it; so that it is always quoted at a price considerably below the ingot price. The proposition is, however, to shove the price of scrap up until it nearly reaches the price of ingot, and then the users of aluminum will prefer to buy the ingot rather than to buy the scrap, and those who relied upon the use of scrap will find none for sale at all. Moreover, they go into the business themselves of using this scrap, and they offer a price for it approaching the price of the virgin ingot, and therefore they get all the scrap away from the people who otherwise would buy it and use it in their manufacturing establishments.

I want to show you how completely that plan, so outlined, was carried out, to the destruction of those who theretofore had been able to maintain their business by going out into the open market and purchasing scrap. It was accomplished by some clever contracts with great users of aluminum, the manufacturers of automobile bodies. They made a contract with the Budd Co., as shown by the Digges report. Referring to the scheme outlined by Cheyney, Digges says:

Under this division of the report your attorney will show that the Aluminum Co. apparently found the scheme just outlined entirely agreeable and proceeded along the lines suggested.

The Budd Co., which makes aluminum bodies for Ford sedans, had to offer the best scrap in large quantities obtainable in the United States, and Budd purchased his virgin aluminum from the proposed respondent. This scrap amounted to between 350,000 and 500,000 pounds per month of high-grade clippings. The Aluminum Co., in order to insure the return of these clippings, which formerly had been sold to Bohn, Waltz, and Dochler—

These were manufacturers who theretofore had gone out into the open market and bought the scrap and had been accustomed to get considerable quantities of scrap from the Budd people—

which formerly had been sold to Bohn, Waltz, and Dochler, gave a price concession on sheet to the Budd Co. in exchange for an agreement to return all secondary metal to the Aluminum Co. So that Budd might be prohibited from "jobbing out" aluminum sheet to cooking-utensil manufacturers, "scrap" was defined as follows.

This is from the contract between the Budd Co. and the Aluminum Co. of America:

All material that does not go into Ford stampings is to be considered scrap and is to be returned to us briquetted in dimensions of not over 6 inches by 12 inches by 24 inches.

The Budd Co. was forced into this agreement against its will, and its representative has stated that the price paid for the scrap was greater than its commercial value; in his opinion it was another step by the Aluminum Co. in the direction of obtaining control of the world's supply of aluminum and of forcing independents to the wall. The first contract, which was entered into about a year ago, covered the purchase of clippings at 22.33 cents per pound f. o. b. Philadelphia; the last one was for clippings at 23.33 cents per pound. These figures represented 90 per cent of the market for virgin aluminum. Mr. Mueller pointed out that the Aluminum Co. officials had testified before the Ways and Means Committee of the House of Representatives that 18 cents was the cost of producing virgin aluminum, but that nevertheless they were willing to pay over 23 cents per pound for secondary metal in order to keep it out of the hands of competitors. The Budd Co. has found "life too short to deal with a monopoly infinitely more arbitrary than the steel people," and on July 1 of this year will cease using aluminum.

Then they went after the Fisher Body Co.

The Fisher Body Co., a General Motors subsidiary, and a very large user of aluminum sheet, was also "lined up" and its secondary metal removed from the market by the same method—a price concession on sheet in exchange for a contract for the return of secondary metal. December 12, 1922, the Aluminum Co. entered into its first contract with the Fisher Body Co. This was three months after the letter adverted to—

That is, the Cheyney letter of September 9, 1922—

for the purchase of scrap at 20 cents per pound. This contract covered all scrap to be developed by the Fisher Body Co. during the first six months of 1923. A subsequent contract for scrap at 22 cents per pound, covering all scrap to be developed during the last half of 1923, was later entered into between the same parties. The Fisher Body Co. likewise had been selling scrap to the Bohn Foundry.

By a series of contracts entered into with the Schram Glass Manufacturing Co., of St. Louis, between the dates of January 30, 1922, and November, 1923, the first-named company agreed to sell to the Aluminum Co. between 1,760,000 and 1,885,000 pounds of baled aluminum clippings at prices ranging between 16 cents per pound and 22 cents per pound.

They made similar contracts with the Wilson Foundry Co., with the Hudson Motor Car Co., with the Continental Motors Co., with the Pierce-Arrow Motor Car Co., and with other companies.

The conclusion of Digges with respect to these matters is expressed thus:

Why would the Aluminum Co. wish to control secondary aluminum? Whatever the purpose might have been, the results are these: (1) Because of a comparative lack of foreign competition, and no foreign competition in price, it is able to maintain the price of virgin aluminum at its own arbitrary figure. Since the Bohn Co. stopped selling foreign metal, the price has advanced from 21 cents per pound to 27 cents per pound. That has taken place within a period of less than two years. (2) Comparatively cheap metal is kept from foundries competing with the Aluminum Co. (3) The Aluminum Co. can and does control the sale of substantially all raw aluminum produced in the United States.

The interviews show very clearly that wherever scrap was being offered in sufficiently large quantities to affect the trend of the market, the Aluminum Co. stepped in and made either a restrictive agreement for its return to the Aluminum Co. or bid prices so high that independents could not pay them and stay in business.

Reference is made to interviews to which your attention will be called.

There is no scrap on the Detroit market. General Motors, through subsidiary corporations, has returned scrap to the Aluminum Co. because the latter company was willing to pay more for it than it was worth to the foundries of General Motors.

As to secondary aluminum he says:

The policy of the Aluminum Co., reasonably inferred, must have sought to accomplish three results in the secondary aluminum market: (1) To control the sale of every pound of aluminum in the United States. (2) To maintain at an arbitrary figure the price of virgin aluminum. (3) To keep secondary aluminum out of the hands of

independent manufacturers. The second and third propositions are corollaries of the first; by the accomplishment of the first result there would be little difficulty in achieving the second and third.

To arrive at a successful achievement of the purposes above stated the following methods were employed:

(1) The Aluminum Co. forced up the market for secondary aluminum to a point so near the virgin market that it became more economical for independent foundries to purchase new metal.

(2) The Aluminum Co. purchased secondary metal in excess of its legitimate requirements in order to remove it from the market.

(3) The Aluminum Co., although admitting that the demand for virgin aluminum during the past three years has not been sufficient to keep its plants in full operation, nevertheless has made restrictive contracts for the return of secondary metal at prices much higher than the cost of making virgin aluminum, and has gone to the former sources of supply of independent foundries and bought in secondary metal at prices that would make remelted metal cost substantially more than the new product.

The Aluminum Co. of America enjoys a domestic monopoly in the smelting of virgin aluminum; it, however, has not enjoyed a monopoly in the secondary product, which is a different commodity, and has its own market. The practices above described have enabled the proposed respondent to obtain a corner on the secondary metal, and have contributed still more to the embarrassment of independents.

These exactions and these practices became so generally obnoxious that the manufacturers using aluminum have endeavored to associate themselves together in what is known as the Aluminum Institute, with a view to presenting a united front, if possible, to these aggressions upon their business.

A man by the name of Harwood, of South Bend, Ind., was active in endeavoring to organize this association, and he addressed a letter under date of December 21, 1923, to another by the name of Root, urging him to go into this matter with him, stating as follows:

DEAR MR. ROOT: I am very glad to have your favor of December 17, but regret to state that Mr. Fulton and I are of the same opinion regarding the further attempt to cooperate with the Aluminum Trust in the promotion of the aluminum business. In fact, two very definite events have occurred since we last wrote you to prove the futility of such a plan. These are the reduction of the price of castings by the foundries belonging to the trust and the increase in the price of the ingot by the trust itself. In other words, it seems evident that the Aluminum Co. of America is now taking another step toward the completion of their plan to acquire complete control of all phases of the aluminum industry. * * * We want it definitely understood that though we are swallowing the medicine of the Aluminum Co., it is bitter, and we do not like it.

We buy from them under protest and we look forward to the time when there will be competition and no need of an aluminum institute. In this connection I might say that the Aluminum Co. of America appears to be getting the desired results in Indiana, as we have received notice this week of five aluminum foundries being forced out of business. Besides these we are informed that the largest aluminum foundry in the State next to ourselves is entirely shut down.

Then Root answered Harwood, under date of December 21, 1923, as follows:

I guess all of us are just about sick of conditions as they exist in the trade, and while your judgment may be correct in your feeling that the institute may not accomplish good results, yet we who have joined it all feel certain that it can do no harm. It may be the case of a drowning man clutching at a straw, but we all want to give it a fair opportunity, and then if it proves a failure, we might just as well all of us close up.

Mr. SWANSON. What is the date of that?

Mr. WALSH. That is December, 1923. That is to be considered in connection with the Dunn report, which stated that there was no complaint whatever from the manufacturers using aluminum in the United States, and that for the last three years everything has been perfectly lovely between them and the Aluminum Co. of America.

I am now going to read the Digges report of interviews had with these same manufacturers, users of aluminum, depending upon the Aluminum Co. of America for their supply. I should say that I would not disclose the names of these persons who were thus interviewed but for the fact, as it is well understood, of the examination by the Federal Trade Commission in support of the complaint made concerning the monopolization of the sand-casting business and scrap aluminum. Testimony is now being taken before an examiner in the city of Pittsburgh, so that sooner or later these facts will be divulged, with the names of the parties who gave them. Therefore I do not hesitate at this time to make public these statements. I read from the interview with Mr. Doehler, of the Doehler Die Casting Corporation, made on April 21, 1924, to Digges, as follows:

We are informed by the British Aluminum Co., through its New York representative, Arthur Seligman, that only 10,000,000 pounds of aluminum ingot was available for American 1924 requirements.

It will be remembered that at the outset I was interrogated by the Senator from Pennsylvania about the opportunity that users of aluminum in the United States, manufacturers using it in their business, had to get a supply of aluminum from foreign producers.

We are informed by the British Aluminum Co., through its New York representative, Arthur Seligman, that only 10,000,000 pounds of aluminum ingot was available for American 1924 requirements. Of this amount Seligman would only furnish us with 1,000,000 pounds, or one-third of our requirements. Thereupon I sent a man to Europe to determine whether foreign metal could be purchased from other European sources. He visited the European companies, with the exception of the German producers, but reported that it was not possible to buy metal for American consumption. We were, therefore, forced to buy 2,000,000 pounds from the Aluminum Co. of America, which Mr. Davis, president of that company, agreed to let us have after I told him that unless the metal was sold us we would be forced to shut up shop.

Only the very best grade of clippings can be remelted for use in die castings, and until the middle of 1923 we were able to purchase clippings from the Budd Manufacturing Co. and the Fisher Body Co. Since that time we have not been able to get clippings from these two sources, and the market, generally speaking, has been forced so high that it is cheaper to buy virgin aluminum. * * * The Aluminum Co. of America uses the most drastic methods of any corporation in America. It is the most arbitrary monopoly in this country, and its methods are non-American.

Mr. KING. Mr. President, is there anything to indicate that Mr. Dunn conferred with this dealer in aluminum?

Mr. WALSH. The records show that he did not.

Mr. SWANSON. What is the date of that?

Mr. WALSH. That is April 21, 1924. I read from the interview of the purchasing agent of the Budd Manufacturing Co.

Mr. NORRIS. Is this the Federal Trade Commission investigation?

Mr. WALSH. This is the Digges report to the Federal Trade Commission, from which I read. Mr. Digges's report of his interview with Mr. Mueller, purchasing agent of the Budd Manufacturing Co., is as follows:

With regard to the foreign situation, Mr. Mueller said it was his opinion that the Norwegian company was purchased by Al. Co. because that company was apparently producing aluminum more cheaply in Europe than any of its foreign competitors, in that the Norwegian company seemed able to sell in American market more cheaply than other foreign companies. The Budd Co. had sent an expert, Colonel Ragsdale, to Europe to study the aluminum situation in conjunction with other work. This expert reported that it was evident that there existed a working agreement between the European producers of aluminum and Al. Co. and also reported that on one occasion Al. Co. had undersold their domestic price by 12 cents per pound in foreign markets. It was assumed that this was done to undersell and punish foreign competitors who did not "keep in line." Keeping in line, according to Mr. Mueller, meant keeping out of the American market except at prices satisfactory to Al. Co.

With regard to the market for aluminum scrap, clippings, and borings, Al. Co. has forced the Budd Manufacturing Co., against its will, to enter into an agreement to resell clippings to Al. Co. at approximately 10 per cent less than the purchase price of ingot. The agreement entered into defines scrap as sheet aluminum not used for specific purpose for which purchased. Al. Co. was frank to admit the reason for the insertion of this clause was to make it impossible for aluminum sheet to get into the hands of utensil manufacturers.

The Budd Manufacturing Co., which makes steel and aluminum automobile bodies, is probably the biggest purchaser of sheet aluminum in the United States. Five hundred to 750 tons per month are purchased from Al. Co., of which one-third has to be returned as scrap.

Until July of 1923 Budd had been selling his clippings to Charles H. Bohn and J. L. T. Waltz and others. Subsequently thereto Al. Co. apparently found out who Budd's vendees were and forced him to sign a contract for the return of the clippings at 22⅛ cents per pound, which was approximately 10 per cent below the purchase price of ingot. A similar contract was entered into in November, 1923. The latest contract between Al. Co. and Budd provides for the sale to Al. Co. of aluminum clippings at 23⅛ cents per pound. This latter contract contains the same definition of scrap above noted.

Al. Co. used to pay 14 cents per pound for scrap, but the competition by independents became so great that the price had been forced up. In his opinion, this was merely another step to secure control of the world's supply of aluminum and to drive out independents. There are independents anxious to buy Budd's scrap in order not to be in the clutches of Al. Co., but because of the restrictive agreement this has been

impossible. The market price of scrap for this reason is greater than its actual commercial value; the price has been artificially maintained because of the desire of independents to obtain aluminum from sources other than Al. Co., especially for the reason that Al. Co.'s subsidiaries are in competition with these independents in the manufacture of aluminum articles. In this connection Mr. Mueller pointed out that Al. Co. officials testified before the congressional tariff committee that the cost of producing virgin aluminum was approximately 18 cents per pound, but they are nevertheless purchasing scrap at prices between 22 and 23.33 cents per pound and are remelting this scrap and rerolling it into sheets.

Mr. Mueller stated that the aluminum monopoly was a direct hindrance to many industries. Al. Co. is the most arbitrary manufacturer in America to deal with, being infinitely more arbitrary than the steel industry.

I want Senators to notice that he says that Budd was forced to sign a contract for the return of the clippings at 22½ cents a pound. The Assistant Attorney General, Mr. Donovan, in his testimony informed us that this was entirely a voluntary agreement, because the Aluminum Co. would pay a higher price for it than anyone else would. Of course, the statement that the Aluminum Co. of America would pay a higher price for it than anyone else would was strictly in accordance with the facts. The assertion that it was a voluntary agreement entered into is flatly denied by an officer of the Budd Co. itself.

Mr. GOFF. Mr. President, will the Senator yield to state the date of that interview which he has read?

Mr. WALSH. That is January 14, 1924. Reference has been made to Mr. Waltz, who had been accustomed to go out into the market and buy scrap from the Budd Co., from the Hudson Co., and from other manufacturers who had scrap to sell. Waltz was an independent importer and broker. His interview states:

With regard to the European situation, Mr. Waltz stated that reliable reports from his European agents tended to show beyond doubt that there was a working agreement between European companies and Al. Co. This arrangement, he stated, was not a territorial arrangement, but an "allocation of customers." Bohn, for example, was allocated to the French company, Alluminium Français, and in order to keep Bohn from purchasing his requirements Al. Co. bought up all of the French company's surplus.

When asked what transpired at the tariff hearings that would cause a tariff of 5 cents to be placed on ingot and a tariff of 9 cents on aluminum sheet, Mr. Waltz replied that the provisions regarding these two commodities practically were written in by Mr. Davis, president of Al. Co. Under the Payne-Aldrich tariff the tariff was 3 cents on ingot and 7 cents on sheet. The committee simply added 2 cents to the tariff on ingot and 2 cents on the tariff on sheet.

With regard to the scrap situation, Mr. Waltz stated that he had not in recent months been able to obtain anything like his requirements in this commodity due to the restrictive contracts entered into between Al. Co. and manufacturers' foundries, such as Budd, Fisher Body Co., etc. He believed that the purpose of Al. Co. was to eliminate Bohn and himself, as they were the two largest independent purchasers of scrap.

Reference has been made to the tariff, and that will be elucidated by reference to the report of the Federal Trade Commission, in which the following appears:

Effect of tariff on prices of ingot and sheet: The efforts of the Aluminum Co. of America, which were not opposed by the consumers of aluminum ingot and sheet, resulted in an increase in the duty on ingot from 2 cents to 5 cents per pound, and on "coils, plates, sheets, bars, rods, circles, disks, blanks, strips, rectangles, and squares from 3½ cents to 9 cents per pound." The act went into effect on September 22, 1922. The Aluminum Co. of America increased its price of ingots on September 26, 1922, from 20 cents to 22 cents per pound, and on November 1, 1922, the price was again increased to 23 cents per pound. Thus, in a little over one month after the tariff went into effect, the entire increase in duties on ingot aluminum was reflected in the price to the consumer. The price of sheet aluminum was also increased on September 26, 1922, and November 22, 1922, aggregating 3 cents per pound against 5½ cents per pound increase in the tariff duties.

Erection of rolling mills retarded: The tariff on aluminum ingots has discouraged the erection of independent rolling mills, so it is claimed.

N. W. Rosenheimer, office manager and director of the Kewaskum Aluminum Ware Co., informed representatives of the commission in August, 1923, that "* * * we are still considering the erection of a rolling mill, and if the tariff was removed from the ingots we would, no doubt, immediately purchase the necessary machinery, as we already have the building, right across the street, which was formerly used by us in our malting business. We have gone into the matter thoroughly and are convinced that it would be a paying proposition with us."

E. H. Noyes, of the Chicago office of the Aluminum Co. of America, wrote to J. O. Chesley, of the Pittsburgh office, on December 22, 1921, referring to the possibility of sheet customers erecting rolling mills, as follows:

"Walker again talked of a rolling mill. He said that he does not want to build one and that he will not build one unless we force him to it.

"In regard to the Illinois Pure Aluminum Co., I am hoping that we may be able to play them along, in lots of a few hundred thousand pounds at a time at reduced prices, until relief comes through the tariff."

The "Walker" referred to in the above letter was George S. Walker, president of the Illinois Pure Aluminum Co. Mr. Noyes wrote to E. K. Davis on April 6, 1922, referring to a recent contract with Mr. Walker for the sale of 1,000,000 pounds of coiled sheet circles at a cut price, and added:

"Mr. Walker is still talking rolling mill.

* * * * * * *

"One advantage of this order, in addition to allowing us to make satisfactory mill schedules, will be to keep him out of the foreign market for some months and also keep the rolling mill out of his mind for some time. I hope the tariff will come along before he is again in the market for large quantities."

Effect of tariff on the industry: It is alleged that a vast quantity of inferior, foreign, light-gauge aluminum cooking utensils was dumped in the United States immediately following the World War, which seriously handicapped and demoralized the domestic industry, a condition which would readily explain the duty imposed upon finished aluminum products by the tariff act of 1922. The conditions were different, however, with reference to bauxite, aluminum ingots, sheets, and other semifinished aluminum products. The duties imposed on these items by the act have resulted not only in continuing but also in increasing the monopolistic position of the Aluminum Co. of America.

Mr. HARRISON. Mr. President, would the Senator object to an interruption in this connection?

Mr. WALSH. Does it relate to this particular matter?

Mr. HARRISON. Yes; the tariff.

Mr. WALSH. Very well.

Mr. HARRISON. At the beginning of the Senator's remarks, I understood the Senator from Pennsylvania [Mr. REED], as well as the Senator from Utah [Mr. SMOOT], to state that there was no tariff on bauxite.

I notice, following what the Senator has stated, that in the consideration of the last tariff bill the Senator from Montana, who is now addressing the Senate, offered an amendment to the proposal of the Finance Committee to take the various kinds of aluminum from the dutiable list and put them on the free list, and in the vote on that amendment the Senator from Utah voted "nay." I am glad to say that Senators on this side of the aisle lined up solidly for the amendment offered by the Senator from Montana. The Senator from Iowa himself is to be congratulated, because he was found at that time in good company.

Mr. CUMMINS. I am always in good company; but I do not just see the materiality of the suggestion, so far as the present discussion is concerned. If we are going into the mysteries and the difficulties and the intricacies of the tariff law upon the proposal made by the Senator from Montana to investigate the question whether the Aluminum Co. of America has violated a decree of the court, I am afraid that it will be a long time before we reach a vote upon the question. Does not the Senator from Mississippi agree with me?

Mr. HARRISON. I think it is right in line, as was suggested by the Senator from Montana, as showing how the activities of this particular monopoly in seeking to increase the tariff on the various aluminum products, as evidenced by the hearings before the Ways and Means Committee when the Underwood bill was up for consideration. A man named Davis, who was one of the moving spirits, appeared before the Ways and Means Committee at that time and talked very strenuously against a reduction in the tariff on aluminum.

Mr. CUMMINS. But what has that to do with the question whether a decree of the court has been violated or not?

Mr. HARRISON. Oh, nothing except that here is a monopoly which has such tremendous control of things that it even seeks to have a high tariff all the time, and it gets the high tariff. In 1922 it endeavored to have the tariff increased, I think, at least 100 per cent, and the Senator joined with those of us then on the Democratic side of the Chamber in keeping the raise from being made effective.

Mr. CUMMINS. I am not a high-tariff man. Everybody knows that.

Mr. HARRISON. The Senator is a "spotted" high-tariff man.

Mr. CUMMINS. No; I am not high tariff upon anything.

Mr. HARRISON. In the RECORD with reference to the last tariff proposition it will be found that the Senator voted many times for very high dutiable rates, and sometimes he voted to reduce the rates.

Mr. CUMMINS. The Senator from Mississippi is not a tariff man at all.

Mr. HARRISON. I am a tariff-for-revenue man.

Mr. CUMMINS. Therein he differs very widely with the Senator from Alabama—I mean the senior Senator from Alabama [Mr. UNDERWOOD]—who, as I understand, indorses and advocates a competitive tariff and is very earnestly—I will not say successfully—a competitive tariff man. Is the Senator from Mississippi a competitive tariff man?

Mr. HARRISON. I am. The Underwood bill was drawn on that theory. At the last Democratic convention, in New York, a provision with reference to the tariff was written into our platform.

Mr. CUMMINS. A competitive tariff is always a protective tariff.

Mr. HARRISON. The Senator has his idea about that proposition. He just a moment ago said that he was for a very low duty on some articles. If the Senator will scan the RECORD he will find that it shows that he voted for a very high protective rate during the consideration of the tariff bill.

Mr. WATSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Indiana?

Mr. WALSH. I yield.

Mr. WATSON. I am a high protective man all the time and therefore disagree with both of the Senators. But, incidentally, the question was not raised on the merits of the proposition which the Senator from Montana has been discussing but from an inadvertent remark made by the Senator from Montana this morning about the tariff on bauxite. The Senator from Pennsylvania [Mr. REED] simply rose to respond to that remark, and that is all there was to it. I do not think the Senator from Montana claims the tariff has anything to do with the question of whether a decree was violated or how to deal with the situation if it was violated.

Mr. WALSH. I flattered myself that my argument was logical and consistent.

Mr. WATSON. I thought so.

Mr. WALSH. I would not refer to this matter if I did not think that it has a direct bearing upon the matter before us. I endeavored to show that the Aluminum Co. of America, having by means of the tariff shut out importations of aluminum from abroad, then proceeded to put out of business all purchasers of scrap aluminum and producers of ingot from scrap in the United States, so that they had an iron-bound monopoly that could not be broken even by importations from abroad.

Mr. WATSON. But did not the Senator in that connection state that there was a tariff on bauxite? That was the inadvertent statement which the Senator made to which I had reference.

Mr. WALSH. No. However, that is entirely irrelevant.

Mr. WATSON. No; the Senator made that statement, and the Senator from Pennsylvania [Mr. REED] responded to it.

Mr. WALSH. It does not make any difference whether I did or whether I did not. The fact is that they have a perfect monopoly, and everybody must concede that they have a perfect monopoly, in the production of aluminum in this country, whether there is or is not a tariff on bauxite.

Mr. WATSON. I do not agree with the Senator; but he having made the statement, and the Senator from Pennsylvania having risen to respond to it, that brought the whole tariff question into the debate.

Mr. WALSH. The Senator is quite in error in imagining that that was the subject of the interruption by the Senator from Pennsylvania. He did refer to it, and he was supported by the Senator from Utah, and I immediately said that it was entirely immaterial. The Senator from Pennsylvania was endeavoring to convince this body, perfectly obviously, that anybody who cared to do so could get aluminum from abroad and that aluminum came in great quantities from abroad.

Mr. WATSON. Of course, there is aluminum coming from abroad, regardless of what the manufacturer may say.

Mr. WALSH. There is if they pay the duty.

Mr. WATSON. Certainly. There is no question about that.

Mr. WALSH. Of course, the Aluminum Co. of America, producing its own aluminum here, gets it as a matter of course at just 2 cents a pound lower than the purchasers who are obliged to pay the duty.

Mr. WATSON. I am not advised as to that, of course.

Mr. WALSH. I am calling attention to the fact.

Mr. WATSON. I shall be very glad to investigate that feature of it.

Mr. WALSH. I am calling attention to the fact that the duty of 2 cents a pound in the ingot having been applied, within 30 days the Aluminum Co. of America raised its prices just 2 cents.

Mr. WATSON. Where are they now?

Mr. WALSH. I do not know.

Mr. WATSON. The statement the Senator made that he would advert to later on and furnish proof of was that the Aluminum Co. of America either had a monopoly of production of bauxite elsewhere in the world and controlled it, or was a party with those who do control it. I understood the Senator to say he would give us some facts on that question before he took his seat.

Mr. WALSH. I can give the facts.

Mr. WATSON. I wish the Senator would do so.

Mr. WALSH. If they are of interest to the Senator, I would be glad to present them.

Mr. WATSON. I would be very glad to have the facts.

Mr. WALSH. Of course, I do not concede that it has anything to do with the question before us to know whether they have a monopoly of the production of aluminum in America.

Mr. WATSON. It might have a bearing on the question.

Mr. WALSH. The fact of the matter is that they have extensive interests in many of the bauxite deposits in South America and in Europe, and according to the testimony here they have working agreements with practically all the producers of aluminum in Europe.

Mr. WATSON. What testimony?

Mr. WALSH. I have just called attention to it.

Mr. WATSON. Testimony where?

Mr. WALSH. Testimony in the record.

Mr. WATSON. I mean before the Federal Trade Commission or before the Department of Justice?

Mr. WALSH. Before the Federal Trade Commission; statements from men who went to Europe for the purpose of buying it and could not buy it except at prices fixed by the Aluminum Co. of America.

Mr. WATSON. I would like very much to have that testimony.

Mr. WALSH. I am giving it to the Senator.

Mr. CUMMINS. Mr. President——

Mr. WALSH. I yield to the Senator from Iowa.

Mr. CUMMINS. It seems to me we have forgotten the fact, if I may interrupt the Senator from Montana again, that in 1912 the court entered a decree adjudging the Aluminum Co. of America to be in violation of the antitrust law. That is the beginning of our investigation. None of us can dispute or ought not to dispute that the Aluminum Co. of America had either established a monopoly or was operating in restraint of trade. I think that ought to be the beginning of our inquiry.

Mr. WALSH. Yes, I think we might very fairly indulge the presumption that a state of facts once shown to exist continues to exist until the contrary is shown. I am not only relying upon the presumption, but I am saying that it has continued.

Mr. CUMMINS. Unless, of course, the Aluminum Co. of America obeyed the decree of the court, which is supposed to have been effective—I do not know whether it was effective or not, but which is supposed to have been effective in removing the restraint of trade and destroying the monopoly if one existed. I am not familiar with that phase of the case nor do I think it is at all material. The question the Senator from Montana is discussing is whether the Attorney General ought to have proceeded against the Aluminum Co. of America for a violation of the decree of 1912.

Mr. WALSH. And he did not do it because he got a report from Dunn that there was nothing the matter with the situation at all, and I am endeavoring to show that we can not rely on Dunn's report.

Mr. CUMMINS. It is perfectly proper that the Senator should endeavor to do that.

Mr. WALSH. Moreover, I am endeavoring to show that the Attorney General should not have relied upon Dunn's report because of Digges's report upon the matter.

Mr. CUMMINS. I have no objection to that effort on the part of the Senator from Montana. I am trying to reduce the discussion to reasonable limits, and I do not care whether the Aluminum Co. is a monopoly or not, so far as this discussion is concerned.

Mr. WALSH. I remarked in passing that Dunn did not interview Waltz, whose statement I have just given to the Senate. I pass to another. Mr. Dockendorff, representing the

Swiss aluminum interests in New York, in an interview of February 13, 1924, said:

The situation for casting manufacturers has been intolerable in the United States because of the difficulty of obtaining deliveries from the Aluminum Co. It is always hard on a manufacturer when he has to depend exclusively on one source of supply.

Dunn did not interview Dockendorff. I read from the statement of Mr. Roesler, February 13, 1924, technical expert of the Iron & Ore Corporation of America in New York City:

Our company represents Swiss interests seeking to export ingot and sheet to the United States. We have not as yet commenced importation of either of these commodities. The importation of sheet at the present time is practically impossible because of the high tariff wall. With the tariff added to the freight rates, the additional cost to the foreigner on sheet is about 11 cents per pound.

Dunn did not interview Mr. Roesler.

Mr. Seligman, representative of the British Aluminum Co., 165 Broadway, February 13–14, 1924:

* * * The exorbitant tariff on sheet is successful in keeping out foreign competition. The only real competition of the Aluminum Co. was furnished by these foreign companies.

We have to sell at prices agreeable to the Aluminum Co. in the United States. At one time the Aluminum Co. went into the home market of the British Aluminum Co. and undersold the home company. The Aluminum Co. has a London sales office for the sale of aluminum in Great Britain.

Mr. WILLIAMS. May I inquire the date of that letter?

Mr. WALSH. February 13–14, 1924.

In informant's opinion the castings manufacturers are very "wobbly" at the present time because of the policy of the Aluminum Co. with regard to them.

Dunn did not interview Seligman.

Mr. Digges's report of his interview with D. M. Shepherd, purchasing agent for Landers, Frary & Clark, on February 15, 1924, is as follows:

We believe there is a working arrangement between the Aluminum Co. of America and the British Aluminum Co. to allocate customers. We are afraid to try to buy in the foreign market, because we are fearful of incurring the wrath of the Aluminum Co. It's a case of making peace with the lion.

* * * * * * *

Last summer the Aluminum Co. indicated to us that they would like to bid on our scrap, to be sent to their castings department. Subsequently they did bid, but were outbid by others. At that time they intimated to us that it would be good business for Landers, Frary & Clark to return the scrap, and in telephone conversations have intimated they would employ coercive measures. Nothing, however, has been put on paper.

These are cooking-utensil manufacturers. Dunn interviewed this company and found that they had no complaint to make.

The report of Mr. Digges, under date of February 18, 1924, of his interview with Otis F. Russell, of Richards & Co., remelters and jobbers, and evidently that is a concern which is in the market for scrap, is as follows:

THE FOREIGN SITUATION

We ordered three carloads of aluminum ingot from the Canadian Aluminum Co., Windsor, Ontario, but could not get deliveries. We have heard that there is an agreement between the British Aluminum Co. and Aluminum Co. of America to deliver only specified tonnage in the United States. Last year the price for aluminum ingot dropped 20 cents. Mr. Arthur V. Davis made a trip to England, and the price went up 23 cents.

* * * * * * *

SCRAP

Generally speaking, in buying scrap we have been forced to pay more than we can afford because of the arbitrary high prices paid by the Aluminum Co.

DELIVERIES

We can not purchase all we need and deliveries are very poor. We know that after deliveries have been refused us that contracts have been made on which deliveries were prompt.

Dunn finds no complaint whatever from this source. He states:

According to Mr. Nichols, no difficulty has ever been experienced in obtaining ample supplies of scrap metal at normal market prices. Mr. Nichols has no knowledge that the Aluminum Co. of America has ever tried to dominate the local scrap market. That company has on occasions been a bidder for scrap in the Boston market, but not to any great extent.

I now read from Mr. Digges's report of his interview with Mr. Harry W. Holt, a representative of the Bohn Co., to which reference has been made:

SCRAP

Loss of the Budd contract was a terrible blow, for it meant that we were deprived of 250 tons of excellent secondary aluminum per month. At the present time we can not get enough scrap at prices that would permit its purchase.

CAPACITY

The capacity of the Bohn foundry is normally 16,000,000 pounds of castings per year. We are now fabricating on the basis of between seven and eight million pounds per year. In order to operate to capacity, therefore, we need 15,000,000 pounds of virgin or secondary metal. We can only get 1,000,000 pounds abroad, and with scrap as high as it is now it is cheaper to buy virgin metal.

Mr. Digges's report of his interview with Mr. P. A. Markey, of the same firm, February 22, 1924, is as follows:

In August, 1922, Mr. Arthur V. Davis, president of the Aluminum Co., went to Europe and came back on the steamship *Olympia*. When he left aluminum ingot was selling at 17 cents per pound; on his return to this country it advanced 23 cents, and shortly thereafter the price went to 25 cents. Meanwhile, the British Aluminium Co. and the Aluminium Français would sell only a limited tonnage for American consumption. We are allocated to the British Co. for a million pounds of metal per year, and we can only buy that amount. Aluminium Français will not sell us at all. The Aluminum Co. of America will sell us only 300,000 pounds per month.

In 1923 Mr. Arthur V. Davis went to Europe, and the price of aluminum advanced 1 cent per pound while he was there.

Mr. SWANSON. What is the date of that statement, I will ask the Senator from Montana.

Mr. WALSH. It is dated February 22, 1924.

Mr. SWANSON. Was it called to the attention of the Department of Justice and of the Federal Trade Commission?

Mr. WALSH. This is the report of the examiner of the Federal Trade Commission to that commission.

Mr. SWANSON. And it was available to the Department of Justice?

Mr. WALSH. Yes; entirely.

Mr. SWANSON. And the man who made the statement was not summoned before the grand jury in an effort to indict these people who are involved?

Mr. WALSH. I do not think that any grand jury has been invited to consider the matter at all.

Mr. SWANSON. What more proof is needed for proceedings against the company than the statements which the Senator has been reading? I am willing to vote for the Senator's resolution if there is no answer to these charges. These witnesses are available and could be summoned before a grand jury. It seems to me the Senate has sufficient information upon which to act.

Mr. WALSH. However that may be, I propose to pile it up.

According to the report of Mr. Digges, another representative of the Bohn Co. states, under date of February 22, 1924:

Whatever difficulty the Bohn Foundry Co. would have with regard to its ability to purchase secondary aluminum also would apply to the Peninsular Co.—

Which is a subsidiary of the Bohn Co.—

The market has been bid up so high by the Aluminum Co. of America that we can not afford to buy this type of metal for the Peninsular Co. The price has risen to a point too near that of virgin metal.

Dunn reports that the Bohn Co. has no present complaint against the Aluminum Co. of America.

Mr. SWANSON. What is the date of that interview?

Mr. WALSH. It is dated February 22, 1924.

Mr. SWANSON. The statute of limitations would not run against that?

Mr. WALSH. No; that is still open. The statute of limitations does not begin to run until the expiration of three years.

I now read the report of Mr. Digges of his interview with John R. Searles, president Michigan Smelting & Refining Co., Detroit, Mich., under date of February 22, 1924:

SCRAP

The scrap market is in very bad shape. We wish to buy a lot of clippings and borings, but the price has been forced up so high by the Aluminum Co. of America that we can no longer buy it with profit. The probable reason for forcing up the scrap market was first to keep secondary metal from castings manufacturers and at the same time to maintain the market for virgin aluminum.

Dunn did not interview Mr. Searles.

On February 25, 1924, Mr. Digges interviewed Mr. L. M. Payne, purchasing agent of Northway Motors Co., Detroit, Mich. The report of that interview is as follows:

We are off of the Aluminum Co. at the present time and we are giving our piston business to Bohn Foundry Co. Bohn quotes us 81 cents per piston and Aluminum Co. has quoted us as low as 76 cents. This, we believe, is below the cost of making piston castings.

Charles B. Bohn Foundry Co. is the biggest competitor of the Aluminum Co. in the fabrication of sand castings.

My personal opinion is that it is to our interest to keep independents in this territory. Aluminum Co. tactics are very arbitrary. They had our business at one time and were charging approximately $1.05 for pistons. Bohn reduced this price to 81 cents. Mr. Wales, a salesman for the Aluminum Co.'s Detroit office, has stated to me, first, that they had the foreigners in line, and, second, they would put Charlie Bohn out of business and that they were out to get him.

Dunn did not interview Payne.

Mr. Digges interviewed George C. Allen, purchasing agent of the Buick Motor Car Co., of Flint, Mich., on February 23, 1924. His report of that interview is as follows:

The attitude of the Buick Co.'s officials seemed to be that they were willing to answer specific questions proposed by the commission's representatives but had no desire to appear as voluntary witnesses. They were not desirous of prejudicing themselves with their only source of supply for aluminum.

So all that Digges got out of them he got by putting corkscrew questions to them. Dunn did not see the purchasing agent of the Buick Motor Car Co.

Mr. Digges's report of his interview with George C. Clark, president of the Clark Metal Last Co., Detroit, Mich., on February 26, 1924, is as follows:

Al. Co. absolutely controls secondary aluminum market. They have bid up scrap so high that independents can not get any of it at prices that would permit them to buy. In 1922 Charlie Bohn tried to buy a certain tonnage from Al. Co. which they refused to sell him. The following day I was able to purchase the same quantity and resold it to Bohn. Al. Co. will sell me because I am not in competition with them.

The only real competitors here are the General Aluminum & Brass Co. and Charlie Bohn. Bohn probably is the largest competitor of the Aluminum Co. in the United States.

Dunn did not see Clark.

On February 27, 1924, Mr. Digges interviewed Mr. Gus Selig, president of the Michigan Copper & Brass Co. His report of the interview is as follows:

The Al. Co. undoubtedly is buying in scrap in order to keep it from the independents and also to maintain the market for virgin ingot. I have been informed reliably that the Cleveland plant of the Aluminum Co. has stored up between seven and eight million pounds of scrap and apparently they do not know what to do with it.

The Aluminum Co. has a policy of making contracts with the users of sheet for the return of clippings. This keeps them off the market.

I sincerely believe that there is a tie-up between foreign companies and the Aluminum Co. to allocate customers and restrain the importation of foreign metal into the United States.

If the commission wished, they could find enough evidence to hang all of the Aluminum Co.'s officials. I feel very certain, however, that nothing will be done. The Mellon interests control the Aluminum Co., and Mellon is very influential in the administration in Washington. He is popular with the masses on account of his program for tax reduction. If the real facts were brought to light the present Teapot Dome would be in comparison a tempest in a teapot.

Dunn did not interview Mr. Selig.

Mr. SWANSON. What is the date of that interview?

Mr. WALSH. February 27, 1924.

I will not state the name of the official of the following corporation interviewed by Digges for reasons satisfactory to myself.

CASTINGS

Several years ago the Aluminum Co. made castings for ——— Co. There was "a rotten tie-up." Deliveries were very poor, holding up our production to an appreciable extent. We then decided not to give them any more business on castings. Bohn now has 60 per cent of the business and 40 per cent goes to the Fulton-Harwood at South Bend, Ind. We are very much interested in seeing these independent foundries live because we know the situation would be very serious if the Aluminum Co. drove them out of business.

The reason the Aluminum Co. buys scrap is to keep it from independents and to maintain a high price per ingot. Bohn is a very reliable foundry, with whom we like to do business. They always have given very satisfactory service.

* * * * * * *

The ——— Co. spends $150,000,000 a year on the outside, and we find that the Aluminum Co. is the most arbitrary firm in America to do business with.

I should not like to be quoted with regard to these statements, as I feel it would be prejudicial to the interests of the ——— Corporation.

Dunn did not visit this corporation.

As to his interview with J. H. Main, purchasing agent for the General Motors Corporation, on February 28, 1924, Mr. Digges reports as follows:

SCRAP

There is no scrap in the market. Al. Co. is paying more for it than the independent foundries can afford to pay. We need scrap in our own foundries, but can't buy it. Through our subsidiary companies we have returned scrap to Al. Co. under contracts, because they will pay much more for it than it was worth to us.

FOREIGN SITUATION

I know absolutely that there is a working agreement between the British, French, and Swiss aluminum companies for the allocation of customers and the restriction of importation of foreign metal. General Motors account, for example, was allocated to the British Aluminum Co., and last year we purchased 7,000,000 pounds from that company under a firm contract. The Aluminum Co. would "lay off" and would not quote General Motors until after the British company had had its say. The British company will not sell in the open market until its own allocated customers are taken care of. For example, I was in New York with Charlie Bohn and in the office of Arthur Seligman, the American agent for the British Aluminum Co. Bohn asked for quotations, which Seligman refused to make until after he found out what requirements of General Motors were. After he had been advised on that point by myself he agreed to sell Bohn 1,000,000 pounds.

Further proof is this: Doehler and Cadillac were allocated to the French for a large part of their requirements—they are both General Motors subsidiaries—and the British would not quote on the requirements of these two corporations as such, but they were willing to sell to General Motors for their general account.

We are buying some metal from the Al. Co., but not from preference. The foreign market has tightened, and this year we have not been able to get all our requirements. Our needs are about 10,000,000 pounds, and we are getting about 5,000,000 pounds from the English.

General Motors is very much interested in the independent foundries, because we consider that they are insurance against high prices. Charlie Bohn is the biggest and best independent in the country. To show what he is doing for the industry, he went out of business several years ago. At that time castings could be bought at 37 cents. When he dropped out, the price went up to 42 cents.

General Motors, Studebaker, and Hudson have given independents some business to keep them on their feet, and we are willing to pay a premium in order to have this insurance against exorbitant prices.

I know from our own foundry costs that Al. Co. has taken General Motors castings business at a loss. A good foundry differential on crank cases, for example, is about 12 and 14 cents. Al. Co. took the Buick business last fall cheaper than Buick could do it in his own shop. When ingot was at 23 cents, it took the Hudson crank-case order at 27 cents. That would not more than half cover the actual foundry cost of converting the metal.

We think we are paying entirely too much for ingot. Prices rise overnight without apparent reason. Aluminum Co. has created a shortage purposely. Their capacity is probably 150,000,000 pounds per year. Their production is not half of that. I do not think the reduction of tariff will help the situation very much.

It is worthy of note that the British and French are not operating to capacity.

On account of the keen competition in the automobile industry, of course, we are interested in purchasing cheap castings, but we are not interested in purchasing them too cheaply.

Dunn did not interview these people, either.

There is another interview here with a gentleman whose name I do not give for reasons satisfactory to myself. He says, under date of March 5, 1924:

Al. Co. has been paying "fancy prices" for scrap, with the result that it is now just as cheap, or cheaper, to buy virgin than scrap. The foundries have been buying remelt in order to cut down the foundry costs. That is no longer feasible. I believe that Al. Co. is paying fancy prices for scrap in order to maintain the market for virgin metal and also to keep it from the foundries. It is not necessary to purchase all the scrap in order to maintain the price, but it is sufficient to purchase a small percentage at a high figure in order to force up the market. We can get sufficient ingot now, though deliveries in the past were poor. Last July our foundry and Al. Co. were bidding on the same jobbing contract. I telephoned Al. Co. in order to cover on my metal requirements. Their Cleveland manager said they didn't have any metal. I replied, "Very well; if you haven't any to furnish me you haven't any to furnish your own foundry department, and consequently you must withdraw your bid on this business." In about an hour the Cleveland office called back and said they were willing to ship to me. A threat in that instance was sufficient.

I feel that Al. Co. is guilty of the things charged, but if I were called as a witness I would be forced to testify as favorably as possible toward Al. Co., because they can break me as easily as treading on a

fly. We joined the institute because we knew they could break us, anyhow, and there could be no additional danger in joining.

Dunn did not see this gentleman.

Mr. McCashen, former treasurer of the Aluminum Castings Co., Cleveland, Ohio, interview of March 7, 1924:

FOREIGN SITUATION

In 1921 I tried to organize competition by negotiating with the foreign companies. I sent an expert to Europe to negotiate with the Swiss Neuhausen people (largely controlled by the Germans) and the British. I wanted more than one foreign source in order to stabilize the situation. In 1922, after the expert had returned from Europe, we had about come to terms. Then came the tariff and ruined it all. I had had the foreign metal examined and found it to be as good as or better than Al. Co.'s product. The foreigners also met the American consumers.

Dunn did not interview McCashen.

Mr. President, because it seems to me rather remote from the question, I ask the privilege of putting in the RECORD a statement from one of these reports concerning the foreign holdings of the Aluminum Co. in bauxite deposits.

The VICE PRESIDENT. In the absence of objection, it will be so ordered.

The matter referred to is as follows:

THE FEDERAL TRADE COMMISSION REPORT

(Page 36)

Control of bauxite deposits: When the Pittsburgh Reduction Co., the predecessor of the Aluminum Co. of America, was organized in September, 1888, the commercially important bauxite deposits in the United States were owned and controlled by many individuals and companies. No single person, firm, or corporation owned or controlled bauxite deposits in a sufficient degree to exercise an arbitrary control over its production. In 1905 the Pittsburgh Reduction Co. had acquired extensive bauxite properties, but it did not own a sufficient proportion to give it a dominating control over the available supply. Two other important companies owned bauxite properties. They were the General Bauxite Co., whose capital stock was owned by the General Chemical Co., and the Republic Mining & Manufacturing Co., owned by the Norton Co. The bauxite mined by the General Bauxite Co. was used by the General Chemical Co. in the production of alum, alum salts, and other chemicals, while that mined by the Republic Mining & Manufacturing Co. was used by the Norton Co. in the production of alundum and abrasives.

The Pittsburgh Reduction Co. acquired from the General Chemical Co. in July, 1905, all of the capital stock of the General Bauxite Co., thus obtaining control of the bauxite properties of the latter company. About 1907 the name of the Pittsburgh Reduction Co. was changed to Aluminum Co. of America and in April, 1909, this concern purchased from the Norton Co. the Republic Mining & Manufacturing Co. with all of its bauxite properties except a 40-acre tract, which was reserved to the Norton Co. for the mining of bauxite for its own use in the production of alundum and abrasives.

It has been alleged that these acquisitions gave the Aluminum Co. of America control of more than 90 per cent of all the known deposits of bauxite in the North American Continent that are of such a character that aluminum can be manufactured profitably therefrom in commercial quantities.

Incident to the purchase of the bauxite properties of the General Chemical Co. (according to the petition filed by the Department of Justice in connection with the Sherman antitrust law proceedings in 1912) an agreement was entered into providing for the sale of bauxite by the Aluminum Co. of America to the General Chemical Co., binding the latter company not to use or knowingly sell any of the bauxite purchased under the agreement to others for use in the production of aluminum. Likewise in the contract for the purchase of the Republic Mining & Manufacturing Co., the Norton Co. agreed not to use, or sell to others for use, in producing aluminum, any of the bauxite mined from the 40-acre tract of bauxite deposits reserved to the Norton Co. As a result of these transactions the Aluminum Co. of America acquired a monopoly of the commercially available bauxite in the United States suitable for the manufacture of aluminum.

These transactions and certain other agreements alleged to be in restraint of trade were brought to the attention of the Department of Justice, and in 1912 the judicial proceedings referred to above were instituted against the Aluminum Co. of America under the Sherman Antitrust Act, as a result of which it consented to a decree requiring it, among other things, to cancel portions of contracts and agreements complained of and to refrain from indulging in the unfair methods of competition therein enumerated.

However, this decree did not in any way lessen its monopolistic control over the bauxite deposits, as it retained its ownership of the bauxite properties it had acquired, and neither the General Chemical nor the Norton Co. appears to have either used or sold its bauxite for the production of aluminum.

Production and manufacture: The Aluminum Co. of America has a reduction plant at East St. Louis, where alumina is made from bauxite, and four smelting plants in the United States producing pig aluminum from alumina. These plants are located at Niagara Falls, N. Y.; Massena, N. Y.; Badin, N. C.; and Alcoa, Tenn. It also has a smelting plant at Toronto, Canada. The company at first made aluminum from cryolite, but later on a process was developed for making it out of bauxite. Practically all of the bauxite used by the Aluminum Co. of America is mined in Arkansas and shipped to East St. Louis, Ill., where pure oxide of aluminum is made. This oxide of aluminum, or alumina, is a white powder. The alumina is shipped from East St. Louis to the various smelting plants where it is smelted into crude or pig aluminum. These pigs are in rough shape and contain some slag. Pig aluminum is remelted, therefore, and cast into more regular shape, free of slag, the casting being called ingot aluminum. The company claims that on account of its inability to dispose of its product in the shape of ingots it was found necessary to carry the manufacture still further by the erection of rolling mills for sheet production, and the construction of other plants for further fabrication.

Production and manufacturing properties: The company now owns or controls 44 subsidiary or affiliated companies engaged directly or indirectly in some branch of the aluminum industry. It is also interested in 13 other companies engaged in miscellaneous industries, some of which are connected with the aluminum industry. * * *

In addition to the bauxite properties held in the United States and in South America, the Aluminum Co. of America owns two companies holding bauxite deposits in Europe. Four subsidiary companies are engaged in mining bauxite, two in the United States and two in South America. The American Bauxite Co., one of the subsidiaries, mines all of the bauxite produced in the United States which enters into the production of aluminum. The Aluminum Ore Co. operates the refining plant at East St. Louis, Ill., and produces all of the alumina produced in the United States used in the production of aluminum. The parent company and two subsidiaries operate four reduction plants producing aluminum from alumina. These plants are located at Niagara Falls, N. Y.; Massena, N. Y.; Badin, N. C.; and Alcoa, Tenn. It also has a smelting plant at Toronto, Canada.

THE DIGGES'S REPORT

The Aluminum Co. has not confined its acquisition of mines and aluminum plants to the United States. In 1922 it acquired in Norway a 50 per cent stock interest in the Norsk Aluminum Co., which controls the waterfalls at Hoyangfadene in Sogn. These falls have a total power of over 80,000 horsepower, of which 30,000 horsepower was developed in 1921, i. e., prior to the stock purchase by the Aluminum Co. The aluminum factory operated by the Norsk Co. has a producing capacity of approximately 7,000 tons of aluminum per year. The terms of the contract providing for the sale to the Aluminum Co. of a half interest in the Norsk Co. bind the American corporation to dispose of one-half of the output of the Norsk Co. The production of the Norsk Co. in 1923 was 13,640,000 pounds.

About the same time the Aluminum Co. also purchased a one-third interest in the Norsk Nitrid Co., another Norwegian corporation.

The Norther Aluminum Co. (Ltd.), of Canada, is entirely owned by the Aluminum Co. This company has a producing capacity of 20,000,000 pounds of aluminum per year.

The Aluminum Co. owns extensive bauxite mines in British Guiana and Dutch Guiana, South America, and in the year 1923 imported into the United States from its British Guiana mines 68,000 tons of bauxite.

Other mining properties include Bauxites du Midi, France, 100 per cent, and Jadranski Bauxit Dionico Drus'tvo, Yugoslavia, 95 per cent.

Mr. WALSH. Mr. President, that, I think, makes a case which entirely discredits the Dunn report. It is not worthy of credence by any one who has access to any other source of information concerning this subject, not to speak about the delay. This proceding ought to have been begun, in my judgment, as early as January 1, 1925. There is no excuse for delaying the institution of proceedings or determining that proceedings were not sustainable later than the 1st of March, 1925. There has been a year of delay in this matter that is entirely without justification.

I do not know whether or not the Senator from Iowa [Mr. CUMMINS], the chairman of the Committee on the Judiciary, for whom I have the very highest regard, subscribes entirely to the Harreld report, which tells us that this investigation has been prosecuted by the department with all due diligence; but if the Senator from Oklahoma were here I would ask him—and I address the inquiry now to the Senator from West Virginia [Mr. GOFF] and the Senator from Iowa [Mr. CUMMINS]—if he can find any justification whatever for a delay of three and a half months after the commission's report had been transmitted to the Attorney General before doing a single thing in the matter? No answer. I inquire, sir, if there can be any justification for a delay, then, of 30 days after the

letter of January 30 before a program was even laid out for the prosecution of the inquiry—a matter of five minutes' work. Ten minutes would have been adequate to outline that program; and when it was done it did not say a word about the difficulty of getting the testimony of the Aluminum Co. from the Federal Trade Commission.

Mr. GOFF. Mr. President, I intend to reply to the distinguished Senator's argument, and I intend to answer in that reply some of the very suggestions and questions which he has made and asked. I did not understand that the Senator wanted a reply now, in view of the fact that he was closing his argument; but I intend to reply to the Senator from Montana, and I shall set forth the reasons why I think the time taken was proper and justifiable under the circumstances.

Mr. WALSH. Of course, the Senator can take his own course about it; but I shall expect him then to tell the Senate why he thinks that four months were necessary before even a step was taken toward making the investigation. I shall expect him to tell the Senate why a further investigation at all was necessary, if it was not for the express purpose of allowing the statute of limitations to run against the offenses committed between October, 1921, and 16 months thereafter. I shall expect him to tell the Senate whether he believes that the Dunn investigation, which covered seven months, was prosecuted with due diligence, four and a half months of which were spent in the field, and two and a half months in the city of Washington. I wonder what that man was doing for 75 days right here in the city of Washington. I shall expect the Senator to tell the Senate whether he believes that it was due diligence to put the prosecution of this matter in the hands of Mr. Benham, who was absorbed in the transactions out in Chicago, and who was unable to be here to give any attention to the matter until the month of November, 1925.

Mr. GOFF. Mr. President, if the Senator will yield, I shall at the proper time answer the Senator, undoubtedly not to his satisfaction; but I shall answer him, I think, within the record and according to the logic of the facts as the record contains them.

Mr. WALSH. I suggest that at the same time the Senator tell us why he thinks that 30 days after the Dunn report came in Mr. Davis was asked to come to Washington. Then I shall ask him to tell how he thinks due diligence was exercised when Mr. Davis took his time about the matter and did not come here for 30 days more. Then I shall ask him to tell the Senate whether he believes that 30 days more ought to have elapsed before Mr. Davis gave permission to examine the books before the inquiry was entered upon—in other words, to tell the Senate how it was that it took from August to November after the Dunn report was in before they began the examination of the books of the Aluminum Co. of America.

Mr. President, a minority report has been filed here by the Senator from Oklahoma [Mr. HARRELD], to which I desire to address a few comments.

I find that this report says, referring to the resolution of the Senate of January 4, 1922:

> It imposed no duty upon the Department of Justice, nor did it require the trade commission to report its findings to that department. No question is presented of the failure of the Department of Justice to perform any duty imposed by the Senate resolution. The commission, however, voluntarily transmitted a copy of its report to the department.

Let us analyze those statements.

> It imposed no duty upon the Department of Justice, nor did it require the trade commission to report its findings to that department.

Of course, that is merely a slur directed at the Federal Trade Commission, that, not having been directed by the Senate to transmit this report to the Department of Justice, it acted gratuitously, offensively, in thus acting. I have called attention to the fact that it was acting strictly in accordance with the injunction of the law.

Next:

> No question is presented of the failure of the Department of Justice to perform any duty imposed by the Senate resolution.

Who said it was? Nobody suggested anything of the kind. We complain not that the Department of Justice did not do what the Senate directed it to do, but that it did not do what the law directed it to do.

> The commission, however, voluntarily transmitted a copy of its report to the department.

Mr. WHEELER. Mr. President, it would have been the duty of the commission regardless of whether or not there was any law on the subject. If there had been a violation of law, it would have been their duty, as it would have been the duty of any other citizen, to report it to the Department of Justice.

Mr. WALSH. Perfectly obvious. They would have been guilty themselves of a breach of the law if they had not done so. It is the duty of every citizen, when information comes to him of a breach of the law, to give information concerning it to the officers of the law in order that due notice may be taken of it.

Then—

> The evidence shows that the Trade Commission did not rely upon its attorneys in the preparation of its plan of inquiry or in the formulation of the report. It is significant, as shown by the testimony before the committee, that the report in its final form was not submitted to the legal board of review in the Trade Commission. While the department's field investigation was made by a special agent, not a lawyer, he was at all times working under the direction of lawyers, and is associated with a lawyer in completing the investigations. This abundantly accounts for the difference between the conclusions of the Federal trade report and the partial findings thus far announced by the department.

Now, let us consider this.

> The evidence shows that the Trade Commission did not rely upon its attorneys in the preparation of its plan of inquiry or in the formulation of the report.

Mr. President, the Federal Trade Commission's inquiry was made pursuant to the resolution of the Senate directing it to inquire why the prices of household commodities did not come down with the prices of other commodities. That was a purely economic question. It was referred to the economic branch of the Federal Trade Commission for inquiry, and the economic branch made its report; and reports of that kind do not go before the legal branch of the bureau. That explains that. But, Mr. President, it will be borne in mind that after having been reviewed by two of the most eminent economists in the United States, now in the service and long in the service of the Federal Trade Commission, it was considered by the Federal Trade Commission itself, three of the five members of which are lawyers, and some of them good lawyers. I refer particularly to ex-Senator Nugent.

> It is significant, as shown by the testimony before the committee, that the report in its final form was not submitted to the legal board of review in the Trade Commission.

In the ordinary course of events, it would not go before that board at all.

> While the department's field investigation was made by a special agent, not a lawyer, he was at all times working under the direction of lawyers—

Under the direction of what lawyers was he working? He was working under the direction of Benham, out in Chicago, conferring with Benham at such times as they happened to be together here in the city of Washington, rare at the most. The report continues:

> This abundantly accounts for the difference between the conclusions of the Federal Trade report and the partial findings thus far announced by the department.

Then it continues:

> A majority of the acts set forth in the report of the Trade Commission were barred by the statute of limitations when such report was received by the department on October 18, 1924.

"A majority of the acts." Three years prior to October, 1924, was October, 1921, and even the letter of the Attorney General of January 30, 1925, tells us that instances during the year 1922 were covered by the report, and the report shows that as late as August, 1923, there were serious complaints concerning the treatment received by manufacturers, users of aluminum, from the Aluminum Co. of America. He says:

> Subsequent thereto former Attorney General Stone outlined to Mr. Seymour, former assistant to the Attorney General, a plan of such further inquiry as was clearly necessary in view of the fact that most of the matter contained in the Trade Commission report was clearly barred by the statute and in its entirety did not cover in substantial detail the period subsequent to 1922.

He has passed from "a majority" to "most of the things" already barred.

> While the investigation as outlined originally contemplated bringing the matter from 1922 down to date, it soon became apparent that the entire situation covered in the report of the Federal Trade Commission should be considered, because (1) the report of the commission was made public at a time and in a manner which gave rise to doubt as to the disinterestedness of the report.

Why? What is the time and what is the manner of making public this report which should occasion a conclusion of a lack

of disinterestedness? It was made, so it happens, right in the heat of a national campaign, but it will be borne in mind that three members of the commission were Republicans, a majority of the commission were Republicans. It went at that time to the Attorney General, a Republican. What are the circumstances attending this which make it subject to this charge of showing a lack of disinterestedness?

(2) The findings of the Trade Commission had been severely criticized by the Aluminum Co. of America as being grossly unfair and biased.

In his letter of January 30, the Attorney General quoted not anything somebody said but letters passing between officers of the Aluminum Co. of America itself. How can any accusation be made that that is unfair? But suppose the Aluminum Co. of America did say that the examination was unfair. What is the difference what it said? There is the evidence. Why should all of that be discarded and the Department of Justice institute an entirely new and independent investigation? The answer is perfectly plain. They wanted to consume time.

(3) One member of the commission, Nelson C. Gaskill, in a letter to the department, has disclaimed all responsibility for the report and its publication.

As I have heretofore stated, a private letter was written to the Attorney General to that effect.

The order of procedure of the investigation as finally enlarged was strictly adhered to, and the resulting investigation was fully competent and reasonably prompt, considering the volume of work then pending in the antitrust division of the department.

That is an alibi. That is to say, the inference to be drawn from this, it is suggested, is that the Department of Justice was overwhelmed with work and was unable to proceed more rapidly. There is not a scintilla of evidence in the record to sustain any such suggestion at all, not a word. The Department of Justice is amply provided with funds by the Congress of the United States, and always has been, to prosecute antitrust cases. A special appropriation is made to that end, usually in the general appropriation bill. No one has said that the Department of Justice was overwhelmed with work, or that it was obliged to delay this because of other and more important questions before that department. That is a perfectly gratuitous thing in this report.

Mr. Dunn, a competent agent, was assigned to the case in the early part of February, 1925. He carried on his work under the direction and counsel of experienced attorneys on the Attorney General's roll—

I have stated that he carried on his investigations under Benham, who was out in Chicago—

attorneys of extensive experience in antitrust cases. As the record shows, he first started active work on the case on February 5, 1925. For the next 15 days proper and persistent effort was made to obtain access to the files of the Federal Trade Commission gathered in the course of its investigation.

It is said that "proper and persistent effort was made" to get access to the files of the commission. What did they do? The Attorney General on February 10, 1925, wrote a letter to the Federal Trade Commission saying, in effect, that, "Pursuant to your letter of October 20, 1924, I am sending Mr. Dunn down to make an examination of the files, and trust you will give him access to your files, as you stated in your letter you would." The Federal Trade Commission wrote back and said, "You can not see any stuff coming to us from the Aluminum Co. of America." And there the matter ends. That is the whole story upon which it is asserted here that persistent and proper effort was made to get access to the files in the hands of the Federal Trade Commission. I pass that.

Mr. WHEELER. Mr. President, will the Senator yield for a question?

Mr. WALSH. I yield.

Mr. WHEELER. I take it that the Senator feels that the evidence accumulated by the commission shows prima facie a violation of both the Sherman antitrust law and the decree of the court?

Mr. WALSH. I have no doubt of it.

Mr. WHEELER. Assuming that to be true, why should the Department of Justice employ anybody else to go ahead with another investigation after one branch of the Government has thoroughly investigated the matter?

Mr. WALSH. That is the point I am making, that the first thing to do was to examine the evidence before the Federal Trade Commission, and if that showed a violation of the decree within the period of three years prior thereto, to file a complaint as a foundation of a contempt proceeding. If it did not show that, then they might or might not conduct an independent investigation on their own account. That would be the way any lawyer would do this job.

My esteemed friend, the chairman of the Committee on the Judiciary, thinks that all this is unconstitutional. I am going to let him expatiate on that, but I merely say that the Senator from Iowa very correctly anticipates what I conceive should be the subsequent proceedings in this matter. If the report should be adopted, as I trust it will be, and I can not conceive the Senate will do anything else, I shall ask that it pass a resolution providing in effect that the Judiciary Committee conduct an examination itself into the question as to whether there has or has not been a violation of this decree, that investigation, however, simply to consist of an examination of the testimony which has already been accumulated by the Federal Trade Commission or which may hereafter be accumulated by the Federal Trade Commission or by the Department of Justice, unless it should find it necessary to examine some other witnesses concerning matters not already covered by the testimony taken.

For the information of the Senate I send a draft of such a resolution to the desk and ask that it be read.

The VICE PRESIDENT. The clerk will read.

The Chief Clerk read as follows:

Resolved, That the Committee on the Judiciary be, and it hereby is, directed to secure, as the same shall be transcribed, a copy of the testimony taken or that may be taken by or under the direction of the Federal Trade Commission in connection with the charge made in that certain complaint issued by it on the 21st day of July, 1925, against the Aluminum Co. of America; that the Attorney General be directed at the earliest convenient date to report to the Senate his conclusion as to whether the charge made against the Aluminum Co. of America in the letter of Attorney General Stone of date January 30, 1925, to the chairman of the Federal Trade Commission and by the said commission in the report referred to in said letter is sustained, and that in the event he finds no warrant for the institution of proceedings upon such charge that he afford to the said Committee on the Judiciary access to and leave to take copies of all files, documents, and evidence in his department relating to such charge; that the said Committee on the Judiciary having so assembled such evidence and documents be, and it hereby is, directed to make a study of the same and such other evidence and documents relating thereto as may heretofore have been transmitted by the said commission to the Senate and, considering the same, together with any other evidence it may take, report to the Senate whether proceedings in contempt against the Aluminum Co. of America are warranted and ought to be undertaken: *Provided*, That the said committee is not hereby authorized or empowered to take any testimony except such as may be supplementary and not in duplication of any that may be by it secured, as herein provided:

Resolved further, That to aid it in the discharge of the duties hereby devolved upon the Committee on the Judiciary it is authorized and empowered to employ counsel at a cost not to exceed $2,500.

Mr. WALSH. If upon that kind of an inquiry the Judiciary Committee should reach the conclusion, and the Senate should approve it, that there had actually been a violation of the decree, I should then propose, as anticipated by the Senator from Iowa, that a joint resolution be passed by both Houses of Congress directing the employment of special counsel to prosecute those proceedings, and all of this is directed to that end, just exactly as we did in the Teapot Dome case when we thought that it would be unwise to trust further to the Department of Justice in the prosecution of the litigation which it was believed was necessary in that particular instance.

My friend the Senator from Iowa thinks all that is unconstitutional. Of course, if it is, then our joint resolution authorizing the employment of special counsel in the Teapot Dome matter was unconstitutional, and Messrs. Pomerene and Roberts are entirely without authority in the premises at all; and inasmuch as they went before the grand jury in those proceedings, if they had no authority at all, their presence in the grand jury room, of course, vitiated all the indictments that were found. I suggest that probably Mr. Doheny and Mr. Fall and his associates would compensate the Senator from Iowa quite lavishly if he were able to sustain that proposition in those proceedings. I myself can see no constitutional objection to the procedure which has thus been outlined. But, as I have said, the Senator from Iowa will elaborate his views upon the matter, and perhaps I shall have something to say to the Senate on that phase of the case a little later.

Mr. President, it has been cynically said by a great criminal lawyer that "you can not convict $100,000,000." The iconoclasts of Russia assail our Government as being dominated entirely by vast aggregations of capital, the controlling spirits

in which manage to work their will through the machinery of government, which we fondly believe assures in this country government by the people. The hold-up man, the confidence man, the burglar who prowls about your houses at midnight, all ply their trade and salve their consciences with the conviction that many men of millions get in one way or another immunity for their crimes.

Mr. President, if this charge is dismissed, this charge in effect against a man of great wealth, a member of the President's Cabinet, a charge preferred by a department of the Government created by the Congress of the United States for the express purpose, among others, of inquiring into just such matters as this, a majority of that commission being of the same political party as the accused officer, repeated and reasserted by the Attorney General of the United States, allied politically in the same way with him, a fellow member of the Cabinet—I say, sir, if this charge is dismissed upon such a pretense of an investigation as has been reviewed here, fie upon your laws! By your vote you will either vindicate or undermine the confidence of the American people in their Government.

NATIONAL SESQUICENTENNIAL CELEBRATION

Mr. FESS. I report back favorably without amendment from the Committee on the Library the joint resolution (H. J. Res. 153) providing for the participation of the United States in the sesquicentennial celebration in the city of Philadelphia, Pa., and authorizing an appropriation therefor, and for other purposes.

Mr. PEPPER. I ask for the immediate consideration of the joint resolution reported from the Committee on the Library which has just been sent to the desk.

It will be recalled that on yesterday the Senate added to the urgent deficiency appropriation bill an item of appropriation for the purpose which is specified in pursuance of an estimate from the Budget officer and in pursuance of the passage by the House of the joint resolution which has now been brought before the Senate. This joint resolution is merely in line with the action taken yesterday by the Senate. I am anxious to have it passed upon by the Senate to-day, because to-morrow the conferees on the urgent deficiency appropriation bill will meet, and I desire to have the action taken by the Senate yesterday perfected.

Mr. ROBINSON of Arkansas. The Senator asks unanimous consent for its consideration?

Mr. PEPPER. I have so requested.

The VICE PRESIDENT. Is there objection?

There being no objection, the joint resolution was considered as in Committee of the Whole and it was read, as follows:

Resolved, etc., That in order that there may be exhibited at the Sesquicentennial Exhibition to be held in the city of Philadelphia, Pa., 1926, by the Government of the United States from its executive departments, independent offices, and establishments such articles and materials as illustrate the function and administrative faculty of the Government tending to demonstrate the nature of our institutions and their adaption to the wants of the people and the progress of our people in the advancement of peace, arts, and industries, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $1,186,500 for the selection, purchase, preparation, transportation, arrangement, safekeeping, exhibition, and return of such articles and materials as the National Sesquicentennial Exhibition Commission may decide shall be included in said Government exhibit; rent and use of such space and construction of such buildings or other structures as may be necessary; payment of salaries and actual and necessary traveling expenses of officers and employees of the Government detailed to such commission; for such further participation by the several executive departments and establishments as may be deemed advisable; and such other expenditures as may be deemed necessary by the National Sesquicentennial Exhibition Commission as may be considered proper to commemorate the one hundred and fiftieth anniversary of the birth of the Nation: *Provided*, That not more than $250,000 of the aforesaid sum shall be allocated to the Department of War and not more than $350,000 of said sum be allocated to the Department of the Navy, of which latter sum $250,000 shall be used for making the necessary repairs and improvements at the Philadelphia Navy Yard incident to holding this exposition.

SEC. 2. That for the purpose of further participation by the Government of the United States in such exhibition, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the further sum of $1,000,000; such sum to be expended by the Sesquicentennial International Exposition, upon the written approval of the National Sesquicentennial Exhibition Commission, exclusively for the construction of four or more buildings for exhibition purposes in connection with such Sesquicentennial Exhibition. It is now declared as the policy of the Government that no deficit which may occur in the expense of the exposition shall be covered by any future appropriation.

SEC. 3. That for the purposes of more effectively carrying out the provisions of this resolution there is hereby created a commissioner of sesquicentennial exposition, to be appointed by the National Sesquicentennial Exposition Commission, whose duty it shall be to carry out the provisions of this resolution. Said commissioner shall be paid, out of the amount authorized by this resolution, such a salary as the National Sesquicentennial Exhibition Commission shall authorize: *Provided*, That such salary shall not be in excess of $10,000 per annum and that the term of office shall not be extended beyond one year from the date of the approval of this resolution.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

EXECUTIVE SESSION

Mr. JONES of Washington. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session, the doors were reopened.

ADJOURNMENT TO MONDAY

While the doors were closed,

Mr. JONES of Washington moved that when the Senate concludes its business to-day it adjourn until Monday next; and the motion was agreed to.

When the doors were reopened,

Mr. JONES of Washington. I move that the Senate adjourn.

The motion was agreed to; and (at 4 o'clock and 15 minutes p. m.) the Senate, under the previous order, adjourned until Monday, February 22, 1926, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 18, 1926

CHIEF JUSTICE SUPREME COURT OF HAWAII

Antonio M. Perry to be chief justice, Supreme Court, Territory of Hawaii.

ASSOCIATE JUSTICE, SUPREME COURT OF HAWAII

James J. Banks to be associate justice, Supreme Court, Territory of Hawaii.

FIRST JUDGE, FIRST CIRCUIT, CIRCUIT COURT OF HAWAII

Frank Andrade to be first judge, circuit court, first circuit, Territory of Hawaii.

SECOND JUDGE, FIRST CIRCUIT, CIRCUIT COURT OF HAWAII

Charles F. Parsons to be second judge, circuit court, first circuit, Territory of Hawaii.

CIRCUIT JUDGE, FOURTH CIRCUIT, TERRITORY OF HAWAII

Homer L. Ross to be circuit judge, fourth circuit, Territory of Hawaii.

POSTMASTERS

INDIANA

Dudley C. Engle, Albany.
Harvey C. Hyer, Eaton.
Gilbert M. Jordan, Flora.

NEW JERSEY

Bertha A. Chittick, Old Bridge.

NEW YORK

Burrell Vastbinder, Addison.
Baxter H. Betts, Argyle.
Lester J. Taylor, Arkport.
Fred A. Shoemaker, Averill Park.
Charles Ray, Barker.
Clarence B. Newhouse, Bloomingburg.
Fred H. Woolshlager, Castorland.
E. Adelbert Totman, Cincinnatus.
Truman Y. Burr, Cochecton.
Leander C. Gregory, Croton Falls.
Floyd W. Ryan, Dalton.
Lee W. Locke, Edmeston.
Charles A. Daniels, Gilbertsville.
Linn C. Beebe, Hamilton.
Wirt N. Moulthrop, Kenoza Lake.
Ella Babcock, Lake Huntington.
Mamie B. Evans, Machias.
Amideas J. Hinman, Mohawk.
McKenzie B. Stewart, Mooers.

Leo F. Wixom, North Cohocton.
Lewis L. Erhart, Pleasant Valley.
Clarence B. Dibble, Sidney Center.
John G. Cole, Waterford.
Willis J. Stone, West Chazy.

PENNSYLVANIA

Harvey E. Brinley, Birdsboro.
Lena M. Trettel, Coal Center.
Rufus H. Ingraham, Genesee.
William K. Speer, Harrisville.
Benjamin F. Evans, Hopewell.
Alfred L. Evans, Kane.
William L. Swarm, Millheim.
Benjamin L. Ross, Monongahela.
Alice Krebs, Pottsville.
Gilbert C. McIntyre, Six Mile Run.
Albert E. Franklin, Sutersville.
Hettie C. Taylor, Westtown.
Jacob M. Aiken, Yeagertown.

HOUSE OF REPRESENTATIVES

THURSDAY, *February 18, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Father in heaven, hallowed be Thy holy name. Take out of every individual breast all resentment, all selfishness, all unworthy ambition. Then shall we see the growing outlines of the ideal man, the ideal country, and the ideal home. May our daily lives be consistent and harmonious with the precepts our mothers taught us when we made her knees the altar of our young hearts. Pour Thy redemptive energy into all souls and impress us that it is simplicity in all the expressions of our lives, which is the terminal point of progress. Reinforce in us the essential attributes of love, purity, and gentleness and Thine shall be the glory. Through Christ our Saviour. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed with amendments the bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 8722. An act making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 37. An act for the relief of First Lieut. Harry L. Rogers, jr.;

S. 69. An act for the relief of the legal representatives of Robert Dillon;

S. 104. An act to carry out the decree of the United States District Court for the Eastern District of Pennsylvania in the case of United States of America, owner of the steam dredge *Delaware*, against the steamship *A. A. Raven*, American Transportation Co., claimant, and to pay the amount decreed to be due said company;

S. 519. An act for the relief of Perley Morse & Co.;

S. 521. An act for the relief of August Michalchuk;

S. 545. An act for the payment of damages to certain citizens of New Mexico caused by reason of artificial obstructions to the flow of the Rio Grande by an agency of the United States;

S. 547. An act for the relief of James W. Laxon;

S. 549. An act for the relief of John H. Walker;

S. 553. An act for the relief of Fred V. Plomteaux;

S. 554. An act for the relief of Frank Grygla;

S. 590. An act for the relief of Emily L. Hoffbauer;

S. 613. An act for the relief of Archibald L. Macnair;

S. 726. An act for the relief of Hilbert Edison and Ralph R. Walton;

S. 776. An act to authorize and provide for the payment of the amounts expended in the construction of hangars and the maintenance of flying fields for the use of the Air Mail Service of the Post Office Department;

S. 835. An act for the relief of the Rodefer Glass Co.;

S. 959. An act for the relief of Tena Pettersen;

S. 1059. An act for the relief of R. Clyde Bennett;

S. 1093. An act for the relief of Nellie Kildee;

S. 1131. An act for the relief of James Doherty;

S. 1144. An act authorizing the Secretary of War to acquire a tract of land for use as a landing field at the air intermediate depot near the city of Little Rock, in the State of Arkansas;

S. 1160. An act for the relief of Immaculato Carlino, widow of Alexander Carlino;

S. 1169. An act authorizing the Secretary of the Interior to convey certain lands in Powell town site, Shoshone reclamation project, Wyoming, to Park County, Wyo.;

S. 1250. An act to amend an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, as amended by the act approved March 3, 1883;

S. 1343. An act for the relief of soldiers who were discharged from the Army during the World War because of misrepresentation of age;

S. 1351. An act for the relief of Wynoma A. Dixon;

S. 1360. An act for the relief of the estate of William P. Nisbett, sr., deceased;

S. 1425. An act for the relief of the legal representative of the estate of Haller Nutt, deceased;

S. 1462. An act permitting Leo Sheep Co., of Rawlins, Wyo., to convey certain lands to the United States and to select other lands in lieu thereof, in Carbon County, Wyo., for the improvement of the Medicine Bow National Forest;

S. 1631. An act for the relief of Capt. Edward T. Hartmann, United States Army, and others;

S. 1632. An act for the relief of the estate of C. C. Spiller, deceased;

S. 1646. An act for the relief of William Zeiss, administrator of William B. Reaney, survivor of Thomas Reaney and Samuel Archbold;

S. 1755. An act for the relief of Francis J. Young;

S. 1794. An act to extend the benefits of the employers' liability act of September 7, 1916, to Gladys L. Brown, a former employee of the Bureau of Engraving and Printing, Washington, D. C.;

S. 1876. An act providing for the sale and disposal of public lands within the area heretofore surveyed as Booth Lake, in the State of Wisconsin;

S. 1886. An act to carry out the findings of the Court of Claims in the case of the Fore River Shipbuilding Co.;

S. 1896. An act for the relief of Lyn Lundquist;

S. 1920. An act for the relief of the devisees of William Rusch, deceased;

S. 1938. An act to issue a patent to John H. Bolton;

S. 2029. An act to authorize the use by the city of Tucson, Ariz., of certain public lands for a municipal aviation field, and for other purposes;

S. 2041. An act to provide for the widening of First Street between G Street and Myrtle Street NE., and for other purposes;

S. 2058. An act for the relief of members of the band of the United States Marine Corps who were retired prior to June 30, 1922, and for the relief of members transferred to the Fleet Marine Corps Reserve;

S. 2091. An act for the relief of Florence Proud;

S. 2128. An act for the relief of Samuel Spaulding;

S. 2197. An act for the relief of Paul B. Belding;

S. 2266. An act granting certain public lands to the city of Stockton, Calif., for flood control, and for other purposes;

S. 2281. An act to authorize the maintenance and renewal of a timber frame trestle in place of a fixed span at the Wisconsin end of the steel bridge of the Duluth & Superior Bridge Co. over the St. Louis River between the States of Wisconsin and Minnesota;

S. 2307. An act authorizing sale of certain lands to the Yuma Chamber of Commerce, Yuma, Ariz.;

S. 2533. An act for the relief of R. P. Rueth, of Chamita, N. Mex.;

S. 2616. An act for the relief of Herman Shulof;

S. 2656. An act for the relief of the estates of John Frazer, deceased, Zephaniah Kingsley, deceased, John Bunch, deceased, Jehu Underwood, deceased, and Stephen Vansandt, deceased;

S. 2658. An act to authorize the Secretary of War to fix all allowances for enlisted men of the Philippine Scouts; to validate certain payments for travel pay, commutation of quarters, heat, light, etc., and for other purposes;

S. 2673. An act to amend the act approved June 3, 1896, entitled "An act to establish and provide for the maintenance of a free public library and reading room in the District of Columbia";